

CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK BENCH

ORIGINAL APPLICATION NO. 591 OF 1996
Cuttack this the 17th day of December, 1996

LALIT MOHAN SETHI ... APPLICANT (S)

-VERSUS-

UNION OF INDIA & OTHERS ... RESPONDENT(S)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

Transcribed (N. SAHU) 17/12/96
MEMBER (ADM IN ISTRAT IVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK BENCH

ORIGINAL APPLICATION NO. 591 of 1996
Cuttack this the 17th day of December, 1996

C O R A M:

THE HONOURABLE MR. N. SAHU, MEMBER (ADMINISTRATIVE)

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Lalit Mohan Sethi,
aged 62 years
S/o. Nabaghana Sethi
Ex-EDMC HADIPALI,
KUCHINDA
permanent resident of
Paruabhadhi, Kuchinda,
Dist: Sambalpur, Orissa

...

Applicant

By the Advocate:

Mr. Ashok Kumar Mishra

-VERSUS-

1. Chief Post Master General
Orissa, Bhubaneswar
2. The Post Master General, (N.Z.) Offices,
Sambalpur
3. Senior (Superintendent) of Post Offices,
Sambalpur
4. S.D.I. (P), Deogarh Sub-Division,
Deogarh
5. Post Master H.Q. Jharsuguda
Orissa

...

Respondents

By the Advocate:

Mr. Ashok Mohanty,
Sr. Standing Counsel
(Central)

...

O R D E R

MR. N. SAHU, MEMBER (ADMINISTRATIVE): In this Application, the
applicant prays for a direction to substitute his date of
birth as per School Leaving Certificate, which is 30.1.1934
and allow him to continue in service till the normal age

5 (5)

of superannuation which will be 30.1.1999. The applicant was appointed on 14.6.1961 as Extra Departmental Mail Carrier (EDMC). In the descriptive particulars furnished on the date of joining, he mentioned his date of birth as 21.3.1931. This date of birth was allegedly recorded on the basis of the statement made by the applicant before the Overseer of Mails. It was countersigned by the Inspector of Post Offices. On the basis of this date of birth, he was superannuated on 20.3.1996, after he completed 65 years. The applicant at no time requested the S.D.I.(P) Deogarh for correction of his date of birth. Even after retirement, the applicant had applied for sanction of gratuity in which he did not protest his date of retirement on the basis of date of birth as per descriptive particulars. It was only after his retirement, he obtained Annexure-1, i.e. School Leaving Transfer Certificate and made a request for correction of his date of birth and continue him in service to the Senior Superintendent of Post Offices, Sambalpur Division. The applicant states that under Rule 79(1), every person newly appointed to a service or a post under Government, shall declare the date of birth with confirmatory documentary evidence, viz., Matriculation Certificate or a Municipal Birth Certificate. In the descriptive particulars, the basis on which the date of birth was recorded was not mentioned. The applicant's claim is that he came to know about the erroneous entry in his service record only when the retirement notice was served one month before the disputed date of retirement. As such, it is stated that the applicant

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is not accountable for the delay caused in claiming correction of the date of birth. Applicant's counsel relies on certain observation of Supreme Court in Harnam Singh's case to the effect that a Government servant can claim correction of date of birth without unreasonable delay if he is in possession of irrefutable proof relating to his date of birth. The School Leaving Certificate can be relied upon as an authentic documentary evidence for alteration of date of birth.

2. It is further urged by Shri A.K.Mishra, counsel for the applicant that there is no provision for maintenance of service book for E.D. Employees. By a notification of the D.G., a provision has been made for preparation of a gradation-list of all the EDAs at Divisional level. The applicant finds fault with the Respondents for not intimating him about his date of retirement six months before the due date. It is also stated in the rejoinder that the descriptive particulars noted at the time of entry into service were in English and these were not readover to him. Shri Ashok Mohanty, learned Senior Standing Counsel submits that descriptive particulars were recorded only on the basis of the applicant's statements made and belated claims for correction of date of birth cannot be admitted. Even after service of the superannuation notice, the applicant did not raise any objection and applied for sanction of gratuity.

3. A similar case has been decided by the Central Administrative Tribunal, Calcutta Bench (O.A. No. 399/93 Kamal Narayan Tiwari vs. Union of India & Others). In that case also the applicant prayed for a declaration that the retirement notice on the basis of a wrong date of birth which was 17.2.1934 recorded by the

authorities at the time of appointment ^{was} /purely on assumption. He claimed that his actual date of birth was 10.12.1937. He had documentary proof for this date of birth. This claim was negatived on the ground that alteration of date of birth after retirement was inequitable. In Harnam Singh's case (1993 (24)ATC page 92) the Supreme Court referred to note 52 of F.R. 56(m) which provides for a request to be made for correction of date of birth within five years from the date of entry into service. The Supreme Court held that what is necessary to be examined is the intention of the rule making authority in providing a period of limitation for seeking the correction of date of birth of the Government servant.

The intention was to discourage ~~the~~ stale claims and belated applications for alteration of date of birth recorded in the Service Book at the time of initial entry into service. It could not be the intention of any authority to give unlimited time to seek correction of date of birth.

4. The applicant has not given any satisfactory explanation as to why even though he possessed document in support of his age at the time of entry into E.D.A. service, he did not produce the same for recording his age. The authorities could not have any motive to record his date of birth on mere assumption. It has to be presumed that official Acts have been done

in accordance with the rules and the entry of date of birth of the applicant was made in the descriptive particulars on the basis of information supplied by him. That apart, I cannot believe that the applicant did not know the probable date of his retirement. Although a service book was not maintained, the applicant could have always verified the descriptive particulars wherein his date of birth was recorded. Within a reasonable time of even 10 years, the applicant could have secured information about the date of birth recorded from him. Every Government servant is presumed to know his date of retirement. The recorded date of birth in the descriptive particulars cannot be doubted. That particular date must have been noted only on the basis of the information furnished by the applicant. These could not have been imagined by the authorities who noted the particulars. I, therefore, hold that claims for correction of date of birth even assuming that the School Leaving Transfer Certificate is genuine, cannot be admitted. Even if there is no rule providing for a time-limit for correction of date of birth, it has to be assumed that such a request for correction should be made within a reasonable time; ~~per se~~, five or ten years. At any rate, in the absence of any provision or rules for correction



of date of birth, the general principle of refusing the relief on the grounds of laches is generally applied. In *State of Tamil Nadu vs.T.V.Venugopalam*, J.T. 1994 (5) S.C. 337, it has been held that no over indulgence should be shown in granting the relief of change of date of birth when such a request is made at the fag end of service by an employee. It is for the applicant to explain the inordinate and unexplained delay. A request for change after retirement simply cannot be accepted.

In view of the above discussion, I find no merit in this Application which is accordingly dismissed. No costs.

Parasuram Sah
(N. SAHU) 17/12/96
MEMBER (ADMINISTRATIVE)

B.K.Sahoo//