

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.137 OF 1999  
Cuttack this the 27th day of April, 2000

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

AND

THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

...

Sri Ghanshyam Das,  
aged about 64 years,  
S/o. Late Banchhanidhi Das,  
of Vill/PO: Jurjanga, Via:Chandal  
PS: Mahanga, Dist: Cuttack

working as E.D.B.P.M., Kurjanga  
Branch Office in account with  
Chandol S.O. under Kendrapara H.O.  
At/PO: Kurjanga, Via: Chandol  
Dist: Mahanga, Dist: Cuttack

...

Applicant

By the Advocates

M/s.S.Mishra-I  
S.N.Misra  
B.Das  
B.N.Misra

-VERSUS-

1. Post Master General,  
Orissa, At/PO/PS:Bhubaneswar,  
Dist: Khurda
2. Superintendent of Post Offices  
Cuttack North Division, Cuttack-753001  
At/PO/Dist: Cuttack

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Respondents

By the Advocates

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Mr.B. Dash  
Addl. Standing Counsel  
(Central)

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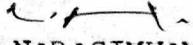
Ghanshyam Das ... Applicant(s)

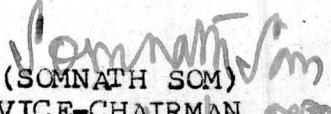
-VERSUS-

Union of India & Ors. ... Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? No

  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)

  
(SOMNATH SOM)  
VICE-CHAIRMAN  
  
27/4/2000

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O R D E R

MR .SOMNATH SOM, VICE CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the notice of retirement dated 19.3.1999 at Annexure-1 retiring him from the post of Extra Departmental Branch Post Master, Kurujanga with effect from 4.4.1999. He has also prayed that his date of birth should be taken to be 21.5.1935 instead of 5.4.1934.

2. The case of the applicant is that he was appointed as E.D.B.P.M., Kurujanga on 16.2.1959 and at the time of his appointment his date of birth was accepted by the postal authorities as 21.5.1935. Accordingly he is due to retire on 20.5.2000. But suddenly in the impugned order at Annexure-1 he was given notice that he was due to retire on 4.4.1999. The applicant has stated according to two School Leaving Certificates vide Annexures-2 and 3 his date of birth is 21.5.1935. In the voter list also his age has been shown as 60. In the Admit Card for the Matriculation his date of birth has been shown as 21.5.1935. In the inspection report copy of which marked as Annexure-6 his date of birth has been shown as 21.5.1935. Because of this he filed representation after getting the notice of retirement for adopting his correct date of birth as 21.5.1935 instead of 5.4.1934. But this has been rejected arbitrarily. In view of this the applicant has approached this Tribunal with the prayers referred to earlier.

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3. Respondents in their counter have stated that at the time of his initial appointment the applicant submitted descriptive particulars in which his date of birth was written as 5.4.1934, copy of which is at Annexure-R/1. The applicant has signed the descriptive particulars also. It

is further stated that in the gradation list, copy of which is at Annexure-R/2, date of birth of the applicant has been shown as 5.4.1934. Respondents have further stated that the applicant approached the Tribunal challenging his date of birth at the fag end of his service career and in accordance with law such a claim should not be entertained. On the above grounds respondents have opposed the prayer of the applicant.

4. Applicant has filed a rejoinder in which he has stated that the gradation list was never circulated and he was not aware of any such gradation list in which his date of birth has been shown as 5.4.1934. He has further stated that with regard to descriptive particulars at Annexure-R/2, at that time his signature on blank descriptive paper was taken and entries were made subsequently by the departmental authorities. In support of this contention he has stated that in the School Leaving Certificate name of his father is Shri Banchhanidhi Dash whereas in the descriptive particular his father's name has been shown as Sankar Dash. It is submitted by the petitioner that he never accepted that his father as Sankar Dash, but actually his father's name is Banchhanidhi Dash. This, according to learned counsel for the petitioner shows that the entries were made in the descriptive particulars behind the back of the petitioner. As regards delay in making application for change of date of birth it is submitted by the petitioner that in another case of Shri Gorachand Das, Ex-E.D.B.P.M., Juhu respondents had conducted an inquiry and accepted his correct date of birth as 1.2.1923 in stead of 9.8.1917 and Shri Gorachand Das has been reappointed to his earlier post of E.D.B.P.M. It is further stated that in case of the applicant no such enquiry

has been made from the School authorities, even though in case of Gorachand Das the departmental authorities verified the actual position from the School and accordingly corrected his date of birth. On the above grounds the applicant has reiterated his prayer in the rejoinder.

5. Respondents have filed additional counter to rejoinder in which they have reiterated the averments made in the counter.

6. We have heard Shri S.N.Mirha learned counsel for the petitioner and Shri B.Dash, learned Addl. Standing Counsel for the respondents also perused the records.

7. The admitted position is that the applicant joined as E.D.B.P.M. in 1959. The notice for retirement was issued to him on 19.3.1999. It is only after notice for retirement he made efforts for change of date of birth from 5.4.1934 to 21.5.1935. His plea that he was not aware of the gradation list cannot be accepted because gradation list was very much there and during his long period of service for about 40 years it cannot be accepted that he had never come across the gradation list. Moreover his plea that he had only put his signature in a blank proforma of descriptive particulars and these have been filled up by the departmental authorities later on behind the back of the petitioner cannot be accepted. If such a plea is accepted then it will be possible for signatory of any document <sup>to</sup> dissociating himself from the documents signed by him. Moreover, besides the fact of mistake in the date of birth as also his father's name, applicant has not brought on record any evidence in support of his contention that he in fact had signed the blank descriptive particulars. In view of this it must be held that when the applicant signed the descriptive

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particulars

He was aware that his date of birth is 5.4.1934. The fact that in the inspection report his date of birth has been shown as 21.5.1935 is of no consequence, because the Inspecting Officer during his inspection does not verify the service particulars. Therefore this date must have been put there at the instance of the petitioner and thus these entries in the inspection report cannot disprove the date of birth mentioned in the service records. It is also to be noted that the applicant has come up for changing his date of birth only at the fag end of his service career. Law is well settled that case for change of date of birth

cannot be entertained at the fag end of service career. The Hon'ble Supreme Court have held that period of five years from the date of entry in Govt. service is a reasonable period for applying for changing the date of birth. In the instant case the applicant has come up 40 years after joining the postal Department for change of his date of birth. As regards Gorachand Das we note that these facts have been brought into the pleadings by the applicant in his rejoinder filed in February, 2000 after the respondents filed their counter in July, 1999 and additional counter in January, 2000. In view of this respondents did not have adequate chance to react to the new fact pleaded in the rejoinder by the applicant. In view of this this new fact pleaded in the rejoinder cannot be taken into consideration.

In the result we do not see any merit in this O.A. which is accordingly rejected, but without any order as to costs.

(G.NARASIMHAM)  
MEMBER (JUDICIAL)

B.K.SAHOO//

(SOMNATH SOM)  
VICE-CHAIRMAN