

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.31 OF 1999
Cuttack this the 18th day of August/2000

Nabaghana Barik ... Applicant(s)

~~-VERSUS-~~

Union of India & Others ... 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*

L. Narasimham
(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 31 OF 1999
Cuttack this the 18th day of August/2000

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)
...

Nabaghana Barik
aged about 62 + years
S/o. Late Udayanath Barik
At - Paiksahi, PO: Tangi
District - Khurda

...

Applicant

By the Advocates

M/s.K.P.Mishra
S.Rath
B.S.Mishra-3
J.K.Khandayat Ray

-VERSUS-

1. Union of India represented
through Chief Post Master General
Orissa, Bhubaneswar, Dist-Khurda
2. Senior Superintendent of Post Offices,
Puri, At/PO/Dist - Puri
3. Sub-Divisional Inspector (Postal)
Balugaon Sub-Division
At/PO - Balugaon, District: Khurda

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Respondents

By the Advocates:

Mr.A. Routray
Addl.Standing Counsel
(Central)

...

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MR. SOMNATH SOM, VICE-CHAIRMAN: In this Application the petitioner has prayed for quashing the order dated 15.10.1998 (Annexure-2) requiring him to retire w.e.f. 20.4.1999 from the post of E.D.M.C. Sundarpur Branch Office.

2. Applicant's case is that his actual date of birth is 5.9.1936, according to which he should have been retired on 5.9.2001. But the respondents have wrongly taken his date of birth as 21.4.1934 and has issued the impugned order by retiring him w.e.f. 20.4.1999. Respondents have filed their counter opposing the prayer of the applicant. It is not necessary to refer the averments made by the respondents in their counter, because these will be taken into account while considering the submissions made by the learned Addl. Standing Counsel for the respondents.

3. We have heard Shri A. Routray, learned Addl. Standing Counsel for the respondents and also perused the records.

4. The only ground on which the applicant has come up with the prayers referred to earlier is that on the basis of horoscope his actual date of birth is 5.9.1936. He has stated that on the basis of this horoscope in the electoral identity card his age has been ^{stated} as 58 years as on 1.1.1994. Respondents have pointed out that the applicant was appointed as E.D.M.C. on 30.11.1957 and at the time of his joining he submitted the descriptive particulars filled in by him showing his date of birth as 21.4.1934 which is at Annexure-R/2. It is also stated by the respondents that in the inspection report of the concerned Branch Office, repeatedly his date of birth has been shown as 21.4.1934 and the applicant was fully aware of this date of birth, and did not prefer ^{any} representation with regard to change of date

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of birth till issue of Annexure-2 by Respondent No. 3 and it is only after receipt of Annexure-2, he filed application producing a copy of Photo Identity card to be retained in service for two more years. On the basis of the above, it is clear that the applicant has based his claim only on the horoscope which is in any case not before us and cannot be taken as a reliable document basing on which date of birth can be determined. So far as Photo Identity card issued for the purpose of election is concerned, the applicant himself has stated in Para -4.0 of the Original Application that basing on the horoscope his age has been recorded as 58 years as on 1.1.1994 in the Photo Identity Card issued by the Electoral authorities. The age recorded in the Photo Identity card cannot be taken into account as on the face of the descriptive particulars submitted by him the applicant has himself mentioned his date of birth as 21.4.1934 and in the inspection report of the concerned Branch Office there has been noted repeatedly. This fact was well within the -knowledge of the applicant, But instead of challenging the same, he has come up only at the last moment challenging his date of birth. There are decisions of the Hon'ble Supreme Court that prayer for change of date of birth at the fag end of the service career and/or before retirement should not be entertained. The departmental instructions also provide that application for change of date of birth can be entertained within five years from the date of joining service or from the date the relevant amendment has come into force. In the instant case the application for

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change of date of birth has been made by the applicant much beyond this period. In view of this we hold that the application is without any merit and the same is rejected, but without any order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN
18.8.2010

B.K. SAHOO//