

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 443 OF 1999.

Cuttack, this the 13th day of April, 2000.

GOURANGA CHARAN SWAIN.

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APPLICANT.

VRS.

UNION OF INDIA & ORS.

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RESPONDENTS.

FOR INSTRUCTIONS

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

2003
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 443 OF 1999.

Cuttack, this the 13th day of April, 2000.

CORAM:

THE HONOURABLE MR. G. NARASIMHAM, MEMBER(JUDICIAL).

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Sri Gouranga Charan Swain, Aged about 62 years,
S/o. Late Sankarsan Swain of village Kandi Sahi,
Po: Baniapal, Via. Arei, Dist. Jajpur.

: Applicant.

BY legal practitioner: Mr. P. K. Padhi, Advocate.

-Versus-

1. Union of India represented by its Chief Postmaster General (Orissa Circle),
At/Po: Bhubaneswar, Dist. Khurda-1.
2. Superintendent of Post Offices,
Cuttack North Division,
At. P. K. Parija Marg, Po: Cuttack
GPO, Dist. Cuttack-1.
3. Assistant Superintendent of Post Offices,
Jajpur Sub Division, At/Po/Dist. Jajpur.
4. Headmaster, Braja Sundar High School,
At/Po. Sayeedpur, Via. Areai,
Dist. Jajpur.

: Respondents.

By legal practitioner : Mr. S. Behera, Addl. Standing Counsel.

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O R D E R

MR. G. NARASIMHAM, MEMBER(JUDICIAL)

Applicant, an E. D. B. P. M., who was made to retire on superannuation on 8-7-1999, on the basis of date of birth mentioned in the service record as 9.7.1934, challenges that order of retirement in this application on the ground that his date of birth is 21-9-1937. In the Original Application he has annexed the SLC dated 21.4.1999 (Annexure-2) in support of his case that he was born on 21-9-1937.

2. Respondents, in their counter, take the stand that he entered the service in the year 1959 and at the time of his initial appointment, he submitted a descriptive particulars duly signed by him mentioning his date of birth as 9.7.1934 alongwith a medical fitness certificate dated 27-11-1959 issued by Dr. B. Rundaban Panda, MBBS wherein it has been described that the applicant to be of 25 years of age (Annexure-R/1series). On receipt of retirement notice, applicant preferred a representation alongwith SLC (Annexure-2) and this representation was duly considered and rejected. Though in the gradation list (Annexure-R/2), under Sl. No. 622, his date of birth was first mentioned as 11.2.1943 and date of appointment as 21.2.1976, the same has been subsequently duly corrected as 9.7.1934 and 27.11.1959 respectively. Since his date of birth was correctly mentioned in the service sheet as 9.7.1934, he was retired on superannuation on completion of 65 years.

3. In the rejoinder, the stand of the Applicant is that Annexure-R/1 containing the particulars furnished by applicant on 26.11.1959 had not been filled up by him and that his signature was obtained in a blank paper and the concerned postal authorities filled up the same. Even this medical certificate dated 27.11.1959 was not obtained by him. No gradation list has ever been circulated to him.

4. I have heard Mr. P. K. Padhi, learned counsel for the applicant, & Mr. S. Behera, Learned Additional Standing Counsel appearing for the Respondents and have also perused the records.

5. Annexure-R/1, dated 26.11.1959 admittedly contains the signature of applicant. Even on the basis of Annexure-2, the SLC, he has studied upto Class-VII. Hence this is not a case of an illiterate person ~~does not know~~ how to read and write, so that under law, the party relying on a particular document containing the LTM of such illiterate person has to prove the particulars therein to be correct. In fact, in the rejoinder, applicant admitted that the Doctor under Annexure-R/2, examined him but at the instance of the Deptt. he puts the age of the applicant in the certificate. In other words, he was aware that the Doctor in the Certificate had not given the correct date of birth even at the time of his initial appointment. Still it is unbelievable that he would be remained silent of all these years without raising a word of protest to the Department over the issue. I am, therefore, not inclined to accept the version of applicant that behind his back, service sheet under Annexure-R/1 had been prepared giving wrong date of birth as 9.7.1934 and even the Doctor also described his age at the instance of the Department in his medical certificate. A similar case of this nature was disposed of by this Bench in O.A. No. 392 of 1994 on 24.06.1997. A plea of this nature put forth by the applicant in that case was not accepted by the Bench.

6. It is next contended by Shri Padhi that at least the Department should be given a direction to enquire as to the genuineness of the SLC Annexure-R/2 furnished by applicant. I do not see any reason to issue any such direction because as per the reasons discussed above, it is for the applicant to convincingly establish that the particulars mentioned in the

service-sheet at Annexure-R/1 and the Medical Certificate in regard to the date of birth are not correct and he has miserably failed in establishing the same.

7. In the result, I do not see any merit in this Original Application which is accordingly dismissed but in the circumstances, without any order as to costs.

13.4.2000
(G. NARASIMHAM)
MEMBER (JUDICIAL)

KNM/CM.