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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 563/1999

Cuttack this the 26th day of March, 2003

Chandra Sekhar Das, aged about 60 years
son of Batakrushna Das, Vill/PO-Jahanagar,
PS/Dist. Kendrapara

.....Applicant

Versus
Union of India

FOR INSTRUCTIONS

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

Manohar
26/03/03
(M. R. MOHANTY)
MEMBER (JUDICIAL)

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CORAM:

THE HON'BLE SHRI M.R.MOHANTY, MEMBER (JUDICIAL)

Chandra Sekhar Das, aged about 60 years
son of Batakrushna Das, Vill/PO-Jahanagar
PS/Dist. Kendrapara

..... Applicant

Advocate for the Applicant Mr.R.K.Kar

Versus

1. Union of India represented through
the Secretary, Post, Dak Bhawan,
New Delhi

2. Superintendent of Post offices,
Cuttack North Division,
Town/Dist. Cuttack

3. Sub-Divisional Inspector of
Post offices, Salipur,
At/PO-Salipur, Dist.Cuttack

..... Respondents

Advocate for the Respondents Mr.S.Behera,
Addl. Standing Counsel

O R D E R

MR.MANORANJAN MOHANTY, MEMBER (JUDICIAL)

The Applicant Chandra Sekhar Das, the E.D.Packer
of Derabish Sub-Post Office, has filed this Original
Application under Section-19 of the Administrative Tribunals'
Act,1985 by challenging the retirement notice given to him.

under Annexure-2 dt.30.8.1999 and Annexure-3 dt.23.10.1999

2. As per the claim of the Applicant his date of birth being 03.12.1939, he is to continue in service upto 02.12.2004. In order to substantiate his claim (i.e., date of his birth to be 03.12.1939) the Applicant has placed on record a copy of a transfer certificate No.1324401 dt.13.04.1999 from the School; wherein his date of birth has been shown to be 03.12.1939.

3. In the impugned notices (under Annexure-2 dt.30.08.1999 and under Annexure-3 dt.23.10.1999) the Department/ Respondents have disclosed the date of birth of the Applicant to be 17.11.1934 and, as a consequence thereof, the Respondents have superannuated the Applicant on 16.11.1999. In the counter the Department has placed on record a document under Annexure-R/1 (stated to be drawn on 02.04.1962) and it is ^{the} case of the Respondents that this Annexure-R/1 is the attestation form (signed by the Applicant); wherein the date of birth/age of the Applicant has been recorded to be 17.11.1934/28 years. The Respondents have also placed on record an extract of the gradation list(as Annexure-R/2) ; wherein the date of birth of the Applicant has also been reflected as 17.11.1934.

4. In the rejoinder filed by the Applicant, the signature in the attestation form (under Annexure-R/1 dt.02.04.1962) has been disputed to be of the Applicant.

Therefore, upon being called, the learned Additional Standing Counsel (Mr. S. Behera) produced the personal file of the Applicant (from the custody of the Respondents); wherein the admitted signatures of the Applicant are available. On close comparison of the signature available under Annexure-R/1 (attestation form dt. 02.04.1962) and the admitted signature of the Applicant (available in his personal file) goes to show that the signature (stated to be of the Applicant) in Annexure-R/1 tallies with the admitted signature of the Applicant. In the said premises, there are no reasons not to believe/accept the document under Annexure-R/1; wherein the date of birth of the Applicant has been shown as 17.11.1934 (and the age of the Applicant, during the year 1962, has been shown to be 28 years) under his own signature. Thus, the irregistable conclusion is that while entering service, the Applicant disclosed his date of birth to be 17.11.1934 and continued to serve the Department with the said date of birth.

5. The Applicant has disclosed in the Rejoinder that the gradation list (an extract of which has been placed on record as Annexure-R/2) was never put to circulation to him at any point of time. In the said premises, the full text of the said gradation list, as available with the Respondents, has been examined in the court (being produced by the Department, through learned Addl. Standing Counsel) which goes to show that a

gradation list /seniority list of the E.D.officials of Cuttack North Postal Division was drawn (in the office of the Superintendent of Post offices, Cuttack North Division) in response to the Circle office letter No.SP/10/2/91 dt.30.12.1991 and sent to the Chief Post Master General, of Orissa Circle (Bhubaneswar) under the forwarding letter dt.28.06.1993 of the Superintendent of Post offices of Cuttack North Division. There are no materials to show that the said seniority list was ever been supplied to the individual staff/officials of the E.D. organisation. Of-course, the copies of the said list was circulated to all subordinate appointing units and the Post Masters of the Jajpur/Kendrapara Head Post Offices. The said gradation list/seniority list was also put to circulation to various service Associations of Cuttack North Postal Division . All these, however, goes to show that a gradation list^{in question} was really drawn and maintained in course of official business during 1993; wherein the date of birth of the Applicant was shown to be 17.11.1934.

6. While accepting the documents under Annexure-R/1 and Annexure R/2 produced by the Respondents, the conclusion is that the Applicant is making an attempt to change his date of birth (as available in the official records) by producing recently,

obtained School Transfer certificate (as available at Annexure-1 dated 13.04.1999) which is not available to be done at fag end of his employment/service. That is the well settled position of law by now.

7. The Applicant entered into service by disclosing his date of birth to be 17.11.1934 and, therefore, he must face superannuation by computing 65th year of his age on the said basis and his claim, in the year 1999/ at fag end of his service, to accept 03.12.1939 to be his date of birth is not tenable and, therefore, his claim, as made in this Original Application, is devoid of any merit. In the aforesaid premises, this Original Application is dismissed. No costs.

/AKB/PS

M. R. Mohanty
(M. R. MOHANTY)
MEMBER (JUDICIAL)

26/03/03