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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH ; CUTTACK

ORIGINAL APPLICATION NO. 129 OF 2000
CUTTACK THIS THE 20th DAY OF June 2001

Bhimsen Jena Applicant. (s)

-Versus-

Union of India & Others Respondents

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*

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN *20.6.2001*

20.6.2001
(G. NARASIMHAM)
MEMBER (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 129 OF 2000
CUTTACK THIS THE 20th DAY OF June 2001

CORAM:

THE HON'BLE SHRI SOMNATH SOM,
THE HON'BLE SHRI G.NARASIMHAM,

VICE-CHAIRMAN
MEMBER (J)

....

1. Sri Bhimsen Jena, aged 60 yrs.
Son of Late Jogendra Jena,
At/PO: Angeswar Pada,
Via: Nauganhat,
Dist-Jagatsinghpur.

... Applicant

By the Advocates

M/s P.V.Ramdas
P.V.B.Rao
P.K.Padhi

- V e r s u s -

1. Union of India, represented by its
Chief Post Master General (Orissa Circle)
At/Po: Bhubaneswar.
District: Khurda, 751 001.
2. Superintendent of Post Offices
Cuttack South Division,
At: P.K.Parija Marg,
P.O: Cuttack G.P.O.
Dist: Cuttack.

... Respondents

By the Advocates

Sri A.K.Bose

S.C

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O R D E R

G.NARASIMHAM, MEMBER (JUDICIAL): Applicant who was appointed as EDBPM of Angoswar Pada on 9.12.57 challenges the order dtd. 29.12.99 (Annexure-2) of Respondent No.3 directing his retirement on superannuation on the 9.3.2000 and prays for his continuance till 5.3.2005, the date on which he would attain superannuation age of 65, on the ground that his date of birth is 5.3.40 and not 10.3.35 as claimed by the Department.

2. The case of the applicant is that when he was the offered the post he was 18 years of age. At that time the Department had not insisted for production of birth certificate and appeared to have mentioned ^{date} ~~death~~ of birth on their own accord which was not communicated to him. After receipt of the notice of retirement under Annexure-2, he had applied for school leaving Certificate (Annexure-1) and obtained the same. As per this certificate his date of birth is 5.3.40. He also represented to Respondent No.2 to inquiry into this matter. But this was turned down on 28.2.2000 (Annexure-3). Though the gradation list (Annexure-4) was published on 22.7.96 indicating his date of birth as 10.3.35 the same was not circulated and he could come to know of the same only in August, 1999.

3. The Respondents (Department) while opposing the application maintain that in 1957 when the applicant was appointed, the minimum age limit for the post of EDBPM was 21 years. In DTE in order letter dtd.18.8.73 (^{Annex R/2} ~~Respondent No.2~~), the minimum age was reduced to 18 years. On the date of his joining, the applicant

had furnished descriptive particulars giving out date of birth as 10.3.35, under his signature (Respondent No.3) Further he had submitted record of service on 23.2.2000 before ASPO stating him date of birth as 10.3-35 (Respondent No.4) for gratuity and severance allowance for which an amount of Rs.48,000/- was sanctioned by order dtd.12.2000 (Respondent 5 & 6). If his date of birth is 5.3.40, he could not have been appointed on 10.12.97 as being under 21 years of age. It is also their specific case that the gradation list was circulated among all the E.D Agents. His representation for correction of date of birth for the first time at a belated stage after 43 years of service and that too after service of notice of retirement cannot be entertained.

4. No rejoinder has been filed.

5. We have heard Sri P.V.Ram Das, learned counsel for the applicant and Sri A.K.Bose, learned Senior Standing Counsel for the Department.

6. There is no dispute the age of retirement on superannuation of EDBPMs is 65 years. It is also not in dispute that the applicant joined as EDBPM on 10.12.57. If his date of birth is 10.3.35, then notice under Annexure-2 relating him on 9.3.2000 is legally justified. If on the other hand, his date of birth is 5.3.40, his date of retirement will be 4.3.2005. Hence the only point for determination is whether his date of birth is 10.3.35 or 5.3.40.

7. Specific averment in the counter that at the time when

the applicant joined, the minimum age limit prescribed for the post was 21 years has not been refuted by the applicant. Even otherwise circular letter under Annexure R/2 indicating this. If date of birth is accepted as 5.3.40, then the applicant's age on 10.12.57 would be less than even 18 years. It looks ^{improbable} ~~impossible~~ the Department would have appointed him as EDBPM knowing that he was under 18 years by then. This apart in the descriptive particulars (Respondent No.3) under his signature furnished at the time of appointment, the date of birth was mentioned as 10.3.1935. It is not his case that he did not sign therein. Even in his application for drawal of gratuity (R/4) submitted after receipt of retirement notice, he mentioned his date of birth as 10.3.1935. We are not convinced with the applicant's version that the date of birth mentioned in the descriptive particulars (Respondent No.3) was not known to him ^{at} ~~the~~ retirement notice was served on him.

§ It is his version that he could be aware only in August, 1999 that his date of birth was mentioned as 10.3.1935 in the gradation list of 1996. If that be so, he offers no explanation in not representing for correction of the date of birth immediately thereafter and why he waited till date of retirement of notice till 29.12.99 without submitting any such representation. Law is well settled that prayer for correction of date of birth has to be made within 5 years of the entry in service and not just before the retirement. This being the legal position, Respondents were justified in not making enquiries on the basis of the School Leaving Certificate obtained in Jan, 2000.

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8. In the result, we do not find any merit in this Original Application which is accordingly dismissed but without costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

20.6.07
(G. NARASIMHAM)
MEMBER (J)

CRB