

5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
UTTACK BENCH; UTTACK.

ORIGINAL APPLICATION NO. 203 OF 2000.
Uttack, this the 5th day of December, 2000.

Maheslal Badak.

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Applicant.

Vrs.

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.

(D. V. R. S. G. DATTATREYULU)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

6

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 208 OF 2000.
Cuttack, this the 5th day of December, 2000.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. D. V. R. S. G. DATTATREYULU, MEMBER (JUDL.).

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Maheslal Badak,
Aged about years,
S/o. Demu Badak,
Resident of Village; Bandega, PO; Bandega,
Ps; Talasara, Dist. Sundergarh,
working as EDBPM of Bandega Branch Post Office,
Dist; Sundergarh.

: Applicant.

By legal practitioner; M/s. B.M. Patnaik, B.C. Swain, S.R. Mohanty,
Advocates.

- Versus -

1. Union of India represented by
Chief Postmaster General, Orissa
Circle, Bhubaneswar, Dist; Khurda.
2. Senior Superintendent of Post Offices,
Sundergarh Division, Sundergarh.

: Respondents.

By legal practitioner ; Mr. S.B. Jena,
Additional Standing Counsel (Central).

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S/Sm.

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application, under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the superannuation order dated 15.6.2000 (Annexure-1) retiring him from the post of Extra Departmental Branch Post Master, Bandaga Branch Post Office taking his date of birth as '15-6-1935'. His grievance is that his actual date of birth is '05-02-1937' and he is entitled to continue in service till 4-2-2002. Respondents have filed counter opposing the prayer of the applicant and the applicant has also filed rejoinder.

2. For the purpose of considering this Original Application, it is not necessary to go into too many facts of this case.

3. The admitted position is that the applicant joined as Extra Departmental Branch Post Master, Bandaga Branch Post Office on 3-5-1963. He has stated that on 14-2-1985, he was addressed by Sub Divisional Inspector, Sundergarh (North) in his letter at Annexure-2 to intimate his date of birth and date of joining the service and he accordingly intimated his date of birth as '5.2.1937' and his date of joining as 3-5-1963. He has stated that according to the School Leaving Certificate issued by the Headmaster on 7.6.1948 (Annexure-5) his date of birth is 5.2.1937. He has also stated that in the Inspection report of his office his date of birth has been mentioned as 5.2.1937 and that is why he claims that 5.2.1937 should be taken as his date of birth and the order of retirement at Annexure-1 should be quashed.

4. Respondents alongwith their counter have enclosed the descriptive particulars filled up on 6-5-1963 at the time of appointment of the applicant. This descriptive particulars is at Annexure-R/4 in which the date of birth of the applicant has been mentioned as 15-6-1935. Applicant has signed this descriptive particulars and his thumb impressions have also been taken on this documents. Respondents have further stated that the applicant had never challenged his date of bith indicated in the descriptive particulars and it is only at the fag end of his service career, he has come up with the prayers to the Department to change his date of birth from 15.6.1935 to 5-2-1937.

5. We have heard Mr.B.M.Patnaik, learned counsel for the applicant and Mr.S.B.Jena, learned Additional Standing Counsel appearing for the Respondents and have also perused the records.

6. It is submitted by learned counsel for the petitioner and this is also averred in the rejoinder filed by the applicant that the descriptive particulars at Annexure-R/4 have not been signed by him. It is stated that the thumb impressions at Annexure-R/4 have not been given by the applicant. Alongwith the rejoinder, the applicant has also given his signature and thumb impressions and states that this signature and thumb impressions are different from the signatures and thumb impressions in the descriptive particulars at Annexure-R/4. In view of this and in view of the School Leaving certificate in which his date of birth has been shown as 5.2.1937, applicant has reiterated his prayer in his rejoinder.

7. The Tribunal is not competent to verify the Thumb impressions at Annexure-R/4 as also in the enclosure to the rejoinder given by the applicant and determine if these Thumb impressions belong to the same person. It is for the applicant to prove that the Thumb impressions at Annexure-R/4 are not his in support of his contention that his date of birth is 5-2-1937. Applicant relied on the School Leaving Certificate which is at Annexure-5 of the Original Application. Respondents have pointed out that this Transfer Certificate was sent to the concerned Headmaster of the Bandega Primary School and he reported in his letter dated 12-6-2000 at Annexure-R/5 that the said certificate is a forged one. He has also mentioned that there is no proof that this School Leaving certificate has been issued from that particular school. He has stated that for all School Leaving Certificates issued by the school a counter foil is maintained but in the instant case the certificate does not have any serial number and counter foil is not there. He has also stated that in the transfer certificate it has been mentioned that one of the subjects available in the school is English but at that time English was not being taught in that particular school and basing on this and various other considerations it has been mentioned by the Headmaster that the Transfer Certificate is completely forged. As the applicant has relied on the transfer certificate to make his claim of date of birth as 5-2-1937 and as the Respondents after enquiry found that the transfer certificate is forged and not a genuine one, it is held that the applicant has failed to prove that his date of birth is 5-2-1937. Application, is therefore, held

J. J. J.

to be without any merit and the same is rejected. No costs.

5/12/2002
(D. V. R. S. G. DATTATREYULU)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM.