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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 210 OF 2000
Cuttack this the 13th day of March/2001

Banambar Jena ... Applicant(s)

VERSUS

Union of India & Others ... Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? 45.
2. Whether it be circulated to all the Benches of the No. Central Administrative Tribunal or not ?

13-3-2001
(G.NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 210 OF 2000
Cuttack this the 13th day of March/2001

CORAM:

THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

Sri Banambar Jena, aged 62 + Yrs.,
S/o. Late Laxman Jena,
Vill/PO: Soran, Via: Khuri,
District - Khurda

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Applicant

By the Advocates

Mr.P.K. Padhi

VERSUS.

1. Union of India represented by it's
Chief Post Master General (Orissa Circle)
At/PO-Bhubaneswar, Dist-Khurda-751001
2. Sr.Superintendent of Post Offices,
Puri Division, At/PO/Dist: Puri-752001
3. Sub Divisional Inspector (Postal)
Balugaon Sub Division, At/PO: Balugaon
Dist - Khurda - 752 030

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Respondents

By the Advocates

Mr.S. Behera

O R D E R

MR.G.NARASIMHAM, MEMBER (JUDICIAL): In this Application for alteration of date of birth and consequent continuance of the applicant as Extra Departmental Mail Carrier, Soran Branch Office till he attains the age of 65 years on 12.11.2002, on the basis of the date of birth as claimed by him, the applicant was made to retire on superannuation on 30.4.2000.

According to applicant, he entered service as E.D.M.C. in the year 1956, when the present Service Rules for E.D.Staff, 1964, were not in force. By then no educational qualification was prescribed for E.D.M.C. Even, illiterate people, who were able to give thumb impressions were also appointed. Applicant has received no education in any School, but read in Chatsali in the village, where no register/files

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were maintained. His actual date of birth, according to his horoscope is 12.11.1937.

By letter dated 27.12.1999, Respondent No.3, viz., S.D.I.(P), Balugaon Sub Division directed him to produce document in support of proof of date of birth along with copy of appointment order (Annexure-1). The applicant, then sent horoscope along with representation dated 23.2.2000 (Annexure-3). But Respondent No.3, under Annexure-4 intimated him that the horoscope was not acceptable in support of proof of date of birth and directed him to submit educational certificate in support of the date of birth. Ultimately, the applicant was made to retire on 30.4.2000 under Annexure-5, on superannuation.

2. The case of the Department is that the applicant actually entered in service as E.D.M.C. in the year 1963. His appointment papers were searched by Respondent No.3 for preparation of Gradation List and as the same could not be made available, he intimated the applicant as well as Postmaster, Khurda Head Office to submit the relevant document. The Postmaster, Khurda on being reminded sent the attestation form of the applicant through letter dated 6.4.2000. The said attestation form is at Annexure-R/5. Although in the attestation the date of birth of the applicant was not mentioned, his age was assumed to be 30 years, as noted therein on 7.6.1963 and the year of ~~date~~ of birth was noted as 1933. This was also got verified by the District Intelligence Bureau on 26.6.1963 and nothing adverse was reported. Taking this information to be correct, the age of the applicant was taken as 30 years as on 1.7.1933. As per the Rules, the superannuation

age is 65 years and the superannuation age of the applicant was fixed as 30.6.1998. As he had already exceeded the age of superannuation he was relieved from service on 30.4.2000. It is further submitted by the Department that the applicant's claim for alteration of date of birth after more than 30 years of entry into service is clearly barred by limitation as per several judicial pronouncements.

No rejoinder has been filed.

3. I have heard Shri P.K.Padhi, the learned counsel for the applicant and Shri S.Behera, the learned Addl. Standing Counsel appearing for the Respondents. Also perused the records.

4. The dispute regarding the year in which the applicant joined the service is not that relevant for determination of the date of birth. The fact remains under Annexure-R/5, the attestation form of the year 1963 contains ^{the} the signature of the applicant, his year of date of birth as 1933 and his age as 30 years by then. This attestation form was signed by the then Local Sarpanch as ~~an~~ witness.

5. Hence the point for determination is whether the age as mentioned in this attestation form in the year 1963 under the signature of the applicant will be preferred with reference to the date of birth or the age as indicated in the horoscope submitted by the applicant. Chances of manipulation of the date of birth through a horoscope cannot be ruled out, because horoscope is prepared and submitted at the instance of the person desiring the alteration of date of birth. When there is other documentary evidence available, it is, therefore, not desirable to place reliance on such horoscope to come to a conclusion with regard to correctness of the date of birth.

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In fact this is also the view expressed by the Madras High Court in the case of L.I.C. of India vs. S.M.Margasahayam reported in 1998 Lab. IC 2343. In view of this legal position I am not inclined to place any reliance on the date of birth as indicated in the horoscope in preference to the age as mentioned in the attestation form of the year 1963 under Annexure-R/5.

6. Under Annexure-R/5 of the year 1963, the age was mentioned to be 30 years. Hence by 1.7.1963, the age of the applicant was taken to be 30 years. He was, therefore, due to retire on superannuation on 30.6.1998. On the other hand he continued in service beyond the age of superannuation for some time. He was, therefore, rightly made to retire on 30.4.2000.

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

13.3.2001
(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//