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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 233 OF 2000
Cuttack this the 5th day of October/2000

Kirtan Sahu ... Applicant (s)

-VERSUS-

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

(FOR INSTRUCTIONS)

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

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
3/10/00

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 233 OF 2000
Cuttack this the 5th day of October/2000

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

...
Sri Kirtan Sahu,
S/o. Kanhei Sahu
aged about 58 years,
At/PO - Tangiri, Via-Bagadia
Dist - Angul

By the Advocates

... Applicant
M/s. A.C. Swain
P.R. Mishra
B.Sahoo

-VERSUS-

1. Union of India represented through its Director General, Department of Posts, Dak Bhawan New Delhi
2. Superintendent of Post Offices, Dhenkanal Division, At/PO/Dist - Dhenkanal
3. Sub-Divisional Inspector (Postal) Angul (West) Sub-Division, At/PO/Dist - Angul

By the Advocates

... Respondents
Mr.S.Behera
Addl.Standing Counsel
(Central)

ORDER

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MR.SOMNATH SOM, VICE-CHAIRMAN: In this Application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the order dated 19.2.2000 (Annexure-3) retiring him on superannuation from the post of Extra Departmental Mail Carrier, Tangiri Branch Office with effect from 21.6.2000 on attaining the age of 65 years. The applicant's second prayer is for a direction to Respondents to take his date of birth as 6.11.1942 into account and not as 22.6.1935 and to allow him to continue in service till his attainment of 65 years of age taking his date of birth as 6.11.1942. Respondents have filed their

counter opposing the prayer of the applicant.

2. For the purpose of considering this Application it is not necessary to go into too many facts of this case. We have heard Shri A.C.Swain, the learned counsel for the applicant and Shri Shri S.Behera, learned Addl.Standing Counsel appearing for the Respondents and also perused the records.

3. The facts of the case, according to applicant is that at the time of his appointment to the post of E.D.M.C., Tangiri B.O. in 1963, he was not asked to produce his School Leaving Certificate and no Service Book was ever issued to him showing his date of birth as 22.6.1935. He was asked in letter dated 2.6.1999 (Annexure-2) to produce his School Leaving Certificate and in pursuance of that he produced the School Leaving Certificate issued on 5.5.1953 vide Annexure-1, which shows his date of birth as 6.11.1942. But without taking this into consideration Respondents have arbitrarily superannuated him with effect from 21.6.2000 taking his date of birth as 22.6.1935 into account. From the pleadings of the parties we find that at the time of applicant's appointment as E.D.M.C. in 1963, he filled up the Attestation Forms and signed the same. The learned counsel for the petitioner has admitted that the Attestation Forms have been signed by the petitioner himself. In the Attestation Forms his date of birth has been mentioned as 22.6.1935. Moreover, in the Attestation Forms there is a Column for mentioning the names of two prominent ~~persons~~ ^{persons} ~~names~~ of the locality known to the petitioner and the petitioner has accordingly mentioned the names of S/Shri Udaya Chandra Nath and Ratnakar Sahu, the second person being the Secretary of Tangiri G.P.. These two persons have also signed the Attestation

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Form. Thus it is clear that at the time of his appointment the applicant had indicated his date of birth as 22.6.1935. We take note of the fact that the School Leaving Certificate does mention his date of birth as 6.11.1942 and this School Leaving Certificate having been issued in 1955 must have been in possession of the applicant in 1963 when he was given appointment as E.D.M.C. Notwithstanding this for ~~the~~ reasons best known to the applicant he has mentioned his date of birth at that time as 22.6.1935. In view of this he cannot be permitted to seek a change in his date of birth after passage of more than 35 years. The relevant Departmental Rules also provide that for the change of date of birth the employee concerned should apply within five years of his joining service and/or within five years of the relevant Rules coming into force. There are also decisions of the Hon'ble Supreme Court that any request for change of date of birth at the fag end of the service career before impending retirement should not be entertained. In consideration of the above and in consideration of the fact that the applicant did mention his date of birth as 22.6.1935 at the time of his appointment as E.D.M.C., Tangiri B.O. in 1963, we hold that the applicant is not entitled to get his date of birth changed as 6.11.1942. The prayers of the applicant in this O.A. are accordingly rejected. No costs.

It is submitted by the learned counsel for the petitioner that such of the retirement dues to which he is entitled to and which might not have been paid because of pendency of this Original Application may be paid to him. We dispose of this prayer with a direction to Respondent No.2, viz., Superintendent of Post Offices, Dhenkanal Division that

taking the date of retirement of the applicant as 21.6.2000, on which date he was superannuated from the post of E.D.M.C., Tangiri B.O., he should be paid his terminal benefits, if any, strictly in accordance with rules within a period of 60 (Sixty) days from the date of receipt of this order, in case the same has not been paid to him already.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
S. Prasad

B.K.SAHOO//