

09. ORDER DATED 16-7-2001.

Heard Shri P.K.Kar, learned counsel for the Applicant and Shri S.Behera, learned Additional Standing Counsel appearing for the Respondents and perused the records.

In this Original Application, the applicant has prayed for quashing the notice dated 15-6-1999 superannuating him from the post of E.D.B.P.M., Sindol Branch Post Office w.e.f. 29-7-1999 taking his date of birth as '30-7-1934'. Grievance of applicant is that according to the School Leaving Certificate, at Annexure-1, his date of birth is '01-01-1939' and according to this he is entitled to be continued in service till 31-12-2003. It is also submitted by the petitioner that the Election Identity Card at Annexure-3/A, records the applicant's age is 55 as on 1-1-1994 and this puts his date of birth as 1-1-1939 which is corroborative of the age mentioned in the School Leaving Certificate. It is also submitted by the learned counsel for the applicant that the applicant was never intimated about his date of birth as recorded in his service record and as such he did not have any opportunity to represent for correcting his date of birth. Only after he got the superannuation notice dated 15-6-1999, he immediately represented on 12-7-1999 at Annexure-3 and followed it up by a further representation dated 3-12-1999 at Annexure-4 but without any favourable result. In the context of the above, the applicant has come up with the prayers referred to earlier.

Respondents in their counter have made various averments opposing the prayers of applicant. It is not necessary to record the averments made by the Respondents in their counter as these will be referred to while considering the submissions made by learned counsel for both sides.

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Respondents have stated that at the time of appointment of applicant which was admitted ^{by} on 27-6-1964, the descriptive particulars were filled up by applicant and he indicated his age to be 30 years. Accordingly, his date of birth was noted as July, 1934 without indicating a specific date. It is submitted by learned counsel for the Applicant that only his blank signature was taken on the descriptive particulars and these were filled up by the Departmental Authorities without consulting him. I find from Annexure-R/2 that after his appointment, applicant was medically examined and in the doctor's certificate dated 1.7.1964 his age has been noted as 30 years. Learned counsel for the applicant has stated that normally medical examination should be made before a person is appointed and not after his appointment and joining ⁱⁿ a post. In the instant case ^{J.Jom.} the applicant was unable to indicate the date of birth. Naturally, medical examination was done after his joining. From the doctor's report at Annexure-R/3 it is seen that the doctor has recorded the age of applicant according to his own statement is 30 years and by his own appearance also it is 30 years. From this it is clear that the applicant had indicated before the doctor that his age is 30 years. ^{J.Jom.} The applicant has not indicated the reasons as to why the Doctor has falsely reported at the time of recording his date of birth to be 30 years. In view of this his contention that the Departmental Authorities have filled up his date of birth as July, 1934 without any representation from his side is held to be without any merit and is rejected. It is further

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stated by the learned counsel for the applicant that as the applicant during his service career was never indicated about his date of birth as 30.7.1934, I am unable to accept this contention because the Respondents have enclosed in their counter the gradation list and in the gradation list against the name of applicant his date of birth has been shown as 30.7.1934. Applicant has stated that it is only after he got the retirement notice he represented basing on his S.L.C. showing his date of birth as 1.1.1939. On a reference to the School Leaving Certificate I find that this certificate has been issued on 23.8.1993 i.e. much before the superannuation notice was issued to him. The applicant had in his possession this certificate dated 23.8.1993 but he never represented till he got the retirement notice. As regards the electoral Identity Card the same is meant for establishing the identity of the Card holder. At the time of issuing the Electoral Card the concerned authority do not undertake an enquiry about the date of birth and age of the holder of the identity card which is mostly filled up on the basis of the statement made by person concerned. Therefore, on the basis of such electoral identity card it is not possible to ignore the evidence of the doctor as also the evidence of the descriptive particulars. Law is well settled that representation for changing the date of birth at the fag end of service career of a Govt. servant, should not be entertained. In the instant case, the applicant through out his service career had never represented for correction of his date of birth and has come up only after he received the notice of

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superannuation even though in the gradation list his date of birth was mentioned as 30.7.1934. In consideration of the above, I hold that the application is without any merit and the same is rejected. No costs.

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SOMNATH SOM
VICE-CHAIRMAN
16.7.2001

KNM/CM.

Four copies of final
Order dt. 16.7.2001
issued to counsel
for both sides.

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