

ORIGINAL APPLICATION NO. 216 OF 2001
 Cuttack this the 16th day of JULY, 2003

VERSUS

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*

(M.R. MOHANTY)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 216 OF 2001
Cuttack this the 16th day of JULY/2003

CORAM:

THE HON'BLE MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL)

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Chudamani Mirmu
working as Water-woman in S.E. Railway
Cuttack Railway Station - residing at
Dadha Gada, PO-Dadha Gada (Baranga)
P.S. Barang, Dist-Khurda

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Applicant

By the Advocates

M/s. P.K. Nayak
S.Ku. Ray

-VERSUS-

1. Union of India represented through the General Manager, South Eastern Railway, Garden Reach, Kolkata (WB)
2. The Divisional Railway Manager, S.E. Railway, At/PO-Khurda Road, Dist-Khurda
3. The Divisional Personnel Officer, S.E. Railway, At/PO-Khurda Road, Dist-Khurda

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Respondents

By the Advocates

M/s. S.Roy
A.A.Khan

ORDER

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL): Applicant (Smt.

Chudamani Mirmu) has filed on 30.05.2001, this Original Application, under Section 19 of the Administrative Tribunals Act, 1985, seeking direction to Respondents for changing her date of birth (as entered in her service book) from '20.5.1941' to '25.05.1962'.

2. Applicant was appointed as against the post of Water-Woman; on compassionate ground granted due to premature

death of her husband, late Sangram Mirmu. At the time, when her case was being considered for providing her with an employment assistance (due to untimely death of her husband) she had submitted an affidavit (duly sworn in by her; before an Executive Magistrate at Bhubaneswar) wherein it was disclosed that her date of birth to be 20.05.1941. In the report of the enquiry, made by the Railways/Chief Permanent Way Inspector, it was also mentioned that the date of birth of the Applicant to be 20.05.1941 and she was 46 years and 8 months at the time of submitting the application; which was also duly authenticated by the Applicant by putting her thumb impression. When she came to know that she was going to retire on 31.05.2001 (on attaining the age of 60 years) on the basis of her recorded date of birth (to be 20.05.1941) she has filed this Original Application asking for change of her date of birth from 20.05.1941 to 25.05.1962. For changing of her date of birth, the Applicant has relied upon a duplicate School Leaving Certificate issued by Handhagada U.P. School of Mayurbhanj.

3. Respondents have filed their counter by contesting the case as made out in this O.A. They have also pleaded in their counter that the grievance of the Applicant is not at all acceptable; as per Sub-Rule-02, Clause-iii of Estt.Srl. No.17/72, which provides that "no alteration in date of birth should be allowed after completion of the probation period or 3 years service, whichever is earlier. It has further been urged by them that as the date of birth of the Applicant was recorded, basing on her own declaration, the Applicant is estopped

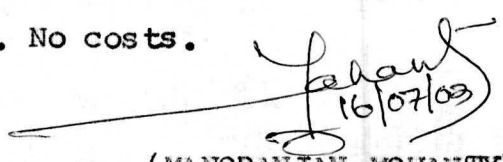
under law to pray for change of the same at the fag end of her service career, i.e., on 28.1.1998. In view of this they have opposed the prayer of the Applicant.

4. Having heard the learned counsel for both the sides and upon perusal of the materials placed on record, I am to record that the Applicant has based her grievance on the duplicate School Leaving Certificate produced by her, as also the vote identity card in order to change of her recorded date of birth. There is no satisfactory explanation given by the Applicant as to why at the time of application for compassionate appointment she did not produce the certificate; when the same was with her; the same having been issued on 16.2.1971. It was disclosed by her (in the Affidavit) that her date of birth is 20.05.1941 according to her horoscope. If according to her horoscope the date of birth is 20.05.1941, how is it that in the S.L.C. the date of birth was recorded as 25.05.1962 ? Further more, it is worthwhile to point out here that if the date of birth was wrongly given, then what prevented her not to apply for correction of the same soon after her appointment. Therefore, one can safely come to the conclusion that these are after-thought stories made out by the petitioner for her benefit; which are not at all acceptable. Law is well settled that, at the fag end of service career, one cannot ask for change of the recorded date of birth. This view is fortified by the decision of the Hon'ble Apex Court of India rendered in the case of Union of India & Ors. v. Harnam Singh, & Or. reported in AIR 1993 SC 1367.

5. In view of the well settled principles of law,

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there is no ground to accept the prayer made in this O.A. and the Respondents have superannuated the applicant on 31.05.2001. Thus, this O.A. stands dismissed, being devoid of any merit. No costs.


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

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