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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.11 OF 2002.  
Cuttack, this the 12th day of August, 2002.

JUDHISTIR NAYAK.

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APPLICANT.

:VERSUS:

UNION OF INDIA & OTHERS.

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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.

*Manoranjan Mohanty*  
(MANORANJAN MOHANTY), 12/08/2002  
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APP LICATION NO. 11 OF 2002.  
Cuttack, this the 12th day of August, 2002.

C O R A M:-

THE HONOURABLE MR. MANORANJAN MOHANTY, MEMBER(JUDICIAL).

SRI JUDHISTIR NAYAK, 63 years,  
S/o.Late Dinabandhu Nayak,  
village/post: Madanpur,  
via:Sainkul Dist:Keonjhar. .... APPLICANT.

By legal practitioner: Mr.P.K. Padhi, Advocate.

:VERSUS:

1. Union of India represented by its Chief Postmaster General, Orissa Circle, At/Po; Bhubaneswar, Dist; Khurda.
2. Superintendent of Post Offices, Keonjhar Division, At/Po; Keonjhar, Dist. Keonjhar- 758 001.
3. Sub-Divisional Inspector (Postal), Anandapur Sub Division, At/Po; Anandpur, District; Keonjhar.

.... RESPONDENTS.

By legal practitioner: Mr.A.K.Bose,  
Senior Standing Counsel (Central).

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O R D E R

MR. MANORANJAN MOHANTY, MEMBER(JUDICIAL) :-

Applicant, Judhistir Nayak was working as Mail Carrier attached to Madanpur Branch Post Office of Keonjhar District. In the gradation list of Extra Departmental Mail carriers, his name finds place at Sl.No. 98 disclosing his date of birth to be 05-10-1938.

According to the Applicant, he was to continue in service upto 04-10-2003, but he was given a notice, under Annexure-2

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dated 22-03-2000 to the following extent:

"On verification of service records it is seen that your date of birth is 10-01-1930 and you have already crossed your date of superannuation. Hence you are directed to intimate your date of birth, if any, available with you and send a copy of your educational certificate within 3 days of receipt of this; failing which the above DOB will be taken as final".

Within seven days therefrom, under Annexure-3 dated 29-03-2000, the Applicant was given retirement from service by treating his date of birth to be 10-01-1930. As against the said action of the Respondents, the Applicant preferred a representation on 21-11-2001, which is available at Annexure-4 to the O.A.. No heed having been paid to the grievances of the Applicant, he filed the present Original Application, u/s.19 of the Administrative Tribunals Act, 1985.

2. By filing counter, in this case, the Respondents have placed on records two documents as Annexures-R/3 and R/4. Annexure-R/3 is a document which was apparently taken from the Applicant at the time of his entry into service wherein he had signed in Oriya script on 17th February, 1962. In the said document under Annexure-R/3, the date of birth of the Applicant has been disclosed as 10-01-1930 and his height has been shown as 5'6". It has also been disclosed that there is a black spot by the side of the right eye as the personal mark of the Applicant. Under Annexure-R/4, a medical certificate dated 18-3-1962 has been produced to show

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that the age of the Applicant was between 30 to 32 years at the relevant point of time. However, no signature of the Applicant is there on Annexure-R/4, although in ordinary circumstances, such signature of the persons medically examined are taken.

3. The issue before this Tribunal is as to whether the date of birth of the Applicant is 10-01-1930 or 05-10-1938. Law is well settled that at the fag end of service, one should not be allowed to change/correct his own date of birth. On the same analogy, the Department is also not to alter the date of birth, at the fag end of the service. Here is a case, where as it appears, at the time of entry into service, the Applicant disclosed his date of birth to be 10-01-1930 which stand corroborated by the socalled medical certificate placed at Annexure-R/4. The document filed by the Applicant under Annexure-1 to the O.A. shows that subsequently, the Department accepted the Applicant's date of birth as 05-10-1938. It is the case of the Applicant that in all Inspection reports, his date of birth has been shown as 05-10-1938. Apparently, that is why, the Respondents gave a notice to the Applicant under Annexure-2 dated 22-3-2000. The Respondents gave the applicant only three days time to substantiate his date of birth and within seven days therefrom, under Annexure-3, dated 29-3-2000, the Respondents passed the order of superannuation by holding his date of birth as 10-01-1930.

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4. In the case of BASANTI MOHANTY VRS. STATE OF ORISSA AND OTHERS (reported in 1991(II)OLR-141), the Hon'ble High Court of Orissa held that giving short notice or short time for explanation etc. amounts to violation of principles of natural justice/Article 14 of the Constitution of India. In the present case, the Applicant was given only three days time to put rebutals; which ought not to have been done and, within seven days thereafter, the Applicant had to go on superannuation. It appears further, that no heed was paid to the grievances of the Applicant as raised in his representation, under Annexure-4 dated 20.11.2001.

5. In the said premises, having heard counsel for both sides and on perusal of the materials placed on record, this OA is disposed of with a direction to the Superintendent of Post Offices, Keonjhar Division, Keonjhar to give a fresh look to the entire matter as raised under Annexure-4 to the OA and pass necessary orders thereon, within a period of three months from the date of receipt of a copy of this order.

6. The Applicant is hereby also given liberty to place further materials before the Superintendent of Post Offices, Keonjhar within ten days from the date of receipt of a copy of this order and in that event, while considering the representation, under Annexure-4 dated 20.11.2001, the Supdt. of Post Offices

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Keonjhar Division, Keonjhar should give due consideration to all the materials and pass necessary orders within the time stipulated above and communicate the result to the applicant within ~~and~~ another period of 15 days thereafter.

7. With the aforesaid observations and directions, this Original Application is disposed of leaving the parties to bear their own costs.

*Manohar*  
12.08.2002  
(MANORANJAN MOHANTY)  
MEMBER (JUDICIAL)

KNM/CM.