

Original Application No. 486 of 2003
Cuttack, this the 6th day of August, 2004

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Vrs.

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FOR INSTRUCTIONS

- (M.R.MOHANTY)
MEMBER (J)

(B.N.SQM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

Original Application No. 486 of 2003

Cuttack, this the 6th day of August, 2004

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN

AND

HON'BLE SHRI M.R. MOHANTY, MEMBER (JUDICIAL)

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Sri Abhina Chandra Panda, aged about 65 years, Son of Late Sitaram Panda of Village/PO Tungibandhali, P.S.: Sohela, District-Bargarh.

..... Applicant

Advocates for the applicant - M/s D.K.Sahu, S.K.Sahu, P.Sahu, B.B.Seth, K.Pradhan.

Vrs.

1. Union of India, represented through its Chief Post Master General, At/PO Bhubaneswar, District-Khurda.
2. Senior Superintendent of Post Office Sambalpur Division, At/PO Sambalpur District-Sambalpur .
3. Assistant Sub-Divisional Post Master Bargarh Division, At/PO/Dist.Bargarh.
4. Sub-Divisional Inspector (Postal) At/PO. Rajborasamber, District-Bargarh.
5. Post Master, Sub-Post Office, Sohela At/PO/P.S. Sohela, District-Bargarh.

..... Respondents

Advocate for Respondent(s) - Mr. S.Behera.

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ORDER

SHRI B.N.SQM, VICE-CHAIRMAN

Shri Abhina Chandra Panda has filed this O.A. challenging the letter No. A-464 dated 24.7.02, issued by Respondent No.2 rejecting his representation for correction in his date of Birth from 4.6.36 to 5.8.38. He has also alleged that the Respondents have not paid his ex-gratia gratuity after his retirement, that his representations on this account, one dated 27.7.2002 and the other, dated 25.1.03 (Annexure-A/5 and Annexure-A/6) have not been disposed of. He has assailed this inaction on the part of the Respondents as illegal, arbitrary and hence liable to be quashed. He has, therefore, approached this Tribunal with a prayer for quashing the order of Respondent No.2 (Annexure-7) and to direct the Respondents to release gratuity amount to him as admissible to similar situated employees.

2. The case in short is, the applicant was appointed as EDDA/MC at Tungibandhali branch office on 3.3.56 and his date of birth was recorded as 4.6.36. Accordingly, the applicant attained the age of superannuation (65 years on 4.06.01) but he continued in service as he claimed his correct date of birth to be 5.6.38. The Respondents have submitted that they had received a complaint from the villagers of Tungibandhali village that, although, he is over aged he was being continued in service and this complaint was inquired into, by the Sub-Divisional Inspector, Rajborasambar Sub-Division. The matter remained under investigation for sometime. After examining all the records and hearing the applicant, Regional Office, Sambalpur finally turned down the plea that this date was

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recorded in the 'Discriptive Particulars' of the applicant prepared at the time of his appointment and that bears his signature also. Hence his request for change in date of birth had no merit. This is how, the Respondent No.2 issued the letter dated 24.7.02 at Annexure-7.

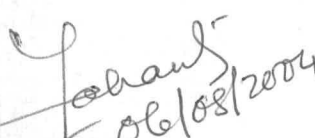
3. The Respondents have already submitted that in the process of enquiry the applicant over stayed in his post by 95 days, beyond the age of 65 years and in terms of the D.G. post letter No. 17-78/92-EDSTRG dated 31.5.93, no ex-gratia gratuity can be paid in such cases unless sanction for regularisation of the irregular retention in service beyond the age of 65 years is obtained from the competent authority. They have, however, submitted that as soon as the period of over-stayal is regularised, action would be taken to release ex-gratia gratuity to the applicant as required under the rules.

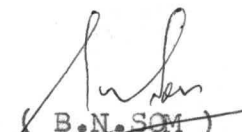
4. Having heard the rival parties and perused the records placed before us, we see no reason to intervene in the matter as it is not open to applicant to ask for change in date of birth at the fag end of the service. This Tribunal has already held in catena of cases that date of birth as recorded in the 'Discriptive Particulars' of E.D. agents ^{is} ~~are~~ the most authentic Service Document for declaring/certifying the date of birth of an Extra Departmental/Gramin Dak Sevak. Any change in the date of birth if needed, can only be carried out strictly within the procedure prescribed in the departmental rules framed in this regard immediately after starting the official career and not just before the retirement of the Government servant. In the circumstances the O.A. fails.

5. We, however, would direct the Respondents to process

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the case for regularisation of the period of over stay of the applicant as early as possible and ensure payment of terminal gratuity and other benefits as admissible to a Gramin Dak Sevak under the rules within a period of 180 days from the date of receipt of this order.


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

RK/SD