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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.591 OF 2002

Cuttack, this the 5th day of May 2003

Nrusingha Jena

.....

Applicant

Vrs.

Union of India & Others

Respondents.

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

Yes

Yes


(B.N.SOM)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.591 OF 2002

Cuttack, this the 5th day of May 2003

CORAM:

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

**Nrusingha Jena, aged about 57 years, S/o Late Balabhadra
Jena, AtPo: Odambar, P.S. Remuna, Dist: Balasore.**

.....Applicant

By the Advocate(s)

Mr. S. Jee

Vrs.

1.Union of India, represented through Chief Postmaster General,
Orissa Circle, Bhubaneswar-1

2.Superintendent of Post Office, Balasore Division, At/Po/Dist:
Balasore.

..... **Respondent(s)**

By the Advocate(s)

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Mr. A.K. Bose, Ld. Sr. ASC

O R D E R

SHRI B.N. SOM, VICE-CHAIRMAN:

Mr. Nrusingha Jena, formerly Branch Post Master Udambar Branch Office in account with Remuna S.O. under Balasore Postal Division has filed this O.A assailing the order of the Respondent No.2 under Annexure-3. The applicant was relieved without notice from duty on account of superannuation w.c.f. 27.12.2001, on the ground that he had crossed the age of superannuation six years back, his actual date of birth being 23.10.1930. The applicant has called this order at Annexure-3 as illegal and arbitrary.

2. The Respondents in their counter refuting the allegations of the applicant has stated that at the time of his appointment the applicant had submitted declaration and descriptive particulars duly signed by him before the Overseer of Mails on 10.01.1968 wherein his date of birth was mentioned as 23.10.1930. Mr. A.K. Bose, Ld. Sr. Standing Counsel during oral submission pointed out that the Attestation Form signed by the applicant (Annexure R/4 series) also showed his date of birth as 23.10.1930. The health certificate submitted by the applicant at the time of initial appointment also disclosed that his age by appearance appeared to be 38 years. Mr. S. Jee, Ld. Counsel for the applicants argued that the actual date of birth of the applicant was 05.07.1944 which was admitted by the Respondents at Annexure-R-3. In the gradation list circulated under Annexure-2, his date of birth was shown as 15.7.1944 Mr. Bose refuted the argument of the Ld. Counsel for the petitioner, drawing my notice to column 10 of the Attestation Form filed by the applicant wherein it was declared that the applicant had entered School, Remuna High School, in 05.07.1944 and left it on 18.11.1946. Referring to this record of dates about his educational career Mr. Bose submitted that if he was admitted in School on 05.07.1944, the applicant could not have been born on that day.

3. For proving the correct date of birth the applicant has relied on the inspection reports of his office dated 23.4.1993, 13.4.1994,

6.4.1995, 4.4.1996 and 20.6.1997 and the seniority list of E.D. Agents corrected up to 1.7.1992 circulated by Respondent No.2 (Annexure 2). In these inspection reports, the date of birth of the applicant has been mentioned variously. In the inspection reports of 1993 and 1994 it is mentioned as 15.7.1944 and in the inspection *the date of birth* reports of 1995, 1996 and 1997 his date of birth is mentioned as 15.4.1944. In the gradation list where his name appears under serial no. 283, his date of birth is printed as 15.7.1944. However, this Tribunal has already decided in a plethora of cases that an inspection report is not to be relied upon as a valid documentary proof of the exact date of birth of an E.D. Agent. It has also been ruled by the Courts that Matriculation/School Leaving Certificate is the only legal document for proving the correct date of birth of an individual. However, where an E.D. Agent is unable to provide School Leaving Certificate/Matriculation Certificate, this Tribunal has held that for the purpose of proving date of birth of the applicant, the descriptive roll prepared by the Department at the time of giving appointment to him, which bears the signature of the appointee, is only to be acted upon as the proof of the correct date of birth of the individual in question.

✓ 4. During the oral argument, it was submitted by the learned Senior Standing Counsel for the Respondents that date of birth which was printed in the gradation list was erroneous and that the error took place due to the mistake that had crept in while preparing Annexure

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R/3 by the office of Respondent No.2. It is also seen that in the Attestation Form which was submitted by the applicant (Annexure R/4) his date of birth was noted as 23.10.1930 and the date of entering School was noted as 5.7.1944. The descriptive particulars (Annexure R/1), which were prepared at the time of his initial appointment, his date of birth was recorded as 23.10.1930 and bears his signature below the declaration. As the Tribunal has already ruled that the date of birth as noted in the descriptive particulars will hold the ground, respectfully agreeing with that decision I declare that the date of birth of the applicant was 23.10.1930 and that the alleged date of birth (5.7.1944) was noted erroneously in Annexure R/3 and also in the gradation list at Annexure 2. In view of the above facts and circumstances of the case as also the law as laid down by the Tribunal in the matter, I see no merit in this O.A.

4 ✓ 5. However, the applicant had stayed more than six years in the job. But that happened due to administrative mistake in preparation of personal data including the seniority list. The applicant cannot be blamed for these errors & omissions. He had actually rendered service upto 27.12.2001 or till he was relieved in pursuance of the order under Annexure -3 and he is therefore entitled to TRAC up to the date of his actual relief for the labour that he had rendered to the Department. I, therefore, order that the amount of TRAC already paid to him for the period beyond 22.10.1995 should not be

recovered by the Respondents from his terminal dues as he had actually worked for that period & he was retained beyond 22.10.1995 due to administrative reasons. Similarly, he should be paid the terminal dues as admissible to Gramin Dak Sevak for the years of service that he had rendered to the Department from 1968 to 22.10.1995. With the above directions, I dispose of this Original Application accordingly. No costs.


(B. N. SOM)
VICE-CHAIRMAN

CAT/CTC
Kalpeswar