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O.A. No. 473/07

ORDER DATED 13th FEBRUARY, 2008

Coram:


Hon'ble DR. K.B.S. Rajan, Member(J)

Mr. P.K. Padhi, Ld. Counsel for the Applicant and Mr S.B. Jena, Ld. ASC for the Respondents are present and heard.

2. The Applicant joined in Respondent's Organisation as EDDA of Jagamohan Branch Post Office. Initially he declared his date of birth as 15.12.1942 and reflected the same at few places including his application where he mentioned his age as 25 years as of 1968. However, within 05 years of his appointment order, he had located error in his date of birth as the original certificate issued by the School Authorities reflected his date of birth as 15.12.1949. Consequently he made a request to the Department for correction of his date of birth. The Respondents had conducted an inquiry and the Inspector concerned endorsed on the application of the Applicant as under:-

"Verified the date of birth of Sri Prafulla Kumar Sahu EDDA of Jagamohan Branch Post Office, with the original certificate is 15.12.1949 instead of 15.12.1942".

3. According to the Applicant after the endorsement of inspector in his application he has a bonafide impression that of the records have been duly corrected as to his date of birth as 15.12.1949. According to the applicant subsequently there was no occasion to



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know that the Department did not exactly carry out the correction but continued to reflect his date of birth as 15.12.1942. It was as late as 31.07.2007 when the Department informed about the date of retirement as 14.12.2007, that the applicant had made representation dated 02.08.07 followed by 29.09.07. Representation dated 02.08.2007 was referred to and the Superintendent of Post Offices vide Annexure-R/11 letter dated 10.10.07 had directed Inspector of Post Offices to take appropriate action at his level taking his date of birth as 1942 as has been noted in the records. In other-words the request of the applicant has not been acceded to. Hence this O.A.

4. After exchange of counter and rejoinder when the case came up for hearing the Ld. Counsel for the Applicant submitted as under : Initially certain errors have crept in, indicating the date of birth of the applicant both in the application as well as in attestation form. However, on realizing the mistake and on the representation of the applicant, the authorities had conducted due verification and made the endorsement on the application for such correction. The applicant was therefore, under a genuine impression that no further action was necessary and his date of retirement would correspond to the date of his actual birth i.e. 15.12.1949. The Ld. Counsel reiterated that no gradation list was ever made available to the applicant and the signature of

the applicant alone in the office copy of gradation list 1994 gives rise to sufficient suspicion that the same has been 'stapes managed.'

5. Per-contra, the Counsel for the Respondents argues that the applicant has clearly stated that he was 25 years of age as on 20.03.1968 which would correspond to his date of birth some time in 1942-43. This is supported by copy of the School Leaving Certificate dated 01.07.1961 whereby the date of birth has been shown as 1942. The attestation form also clearly shows the date of birth as 15.12.1942 and also the age as 26 years. As such the bonafide of the applicant's attempts in getting his date of birth corrected in 1973 is very much doubted, though, at that time verification was conducted through an officer in the Department within this ostensible authority.

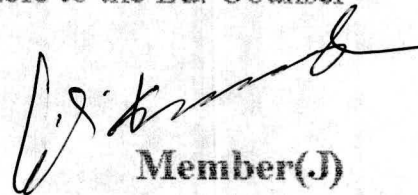
The Counsel for the Respondents further submitted that the gradation lists were normally circulated and the applicant has not raised his voice against his date of birth as 1942. It is after 34 years that the applicant has come down and the same cannot be permitted.

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6. Arguments were heard documents perused. It appears that there is a bonafide mistake committed by the applicant at the time of his initial appointment and within 05 years of issue of offer of appointment he had taken corrective action. The applicant had not taken any undue advantage on giving his date of birth in his application/in attestation form as 15.12.42. It would have been a different matter had the applicant been under age as per his actual date of birth and to avoid the same he given different date of birth. That is not the case. He was above 18 and the original certificate reflects his date of birth as 15.12.1949. Verification by the authority had been duly conducted and it has been clearly endorsed that the applicant's correct date of birth was 15.12.1949. The date of birth in the gradation list indicated as 15.12.1942 can not be taken as weakening the case of the applicant or improving the case of the Respondents for seniority list is not an authenticated document in respect of date of birth. As such, the applicant had made out a case. Consequently it is declared that the applicant shall retire on completion of 65 years of age reckoned from 1949 and not 1942. Respondents shall re-instate the applicant and position him in the same post where-from he was relieved. It is made clear that the applicant shall not be entitled to any back wage

for the period he was out of service. Let this order be complied with within 04 weeks from the date of communication of this order. Accordingly this O.A. is disposed of. No order as to cost.

7. Copy of this order be made available to the Ld. Counsel appearing for both the parties


Member(J)