

10

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.NO.650 OF 2012

Cuttack this the 20th day of February, 2013

Anadi Muna...Applicant

-VERSUS-

Union of India & Ors....Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *Yes*
2. Whether it be referred to CAT, PB, New Delhi for circulation ? *yes*


(R.C.MISRA)
MEMBER(A)


(A.K.PATNAIK)
MEMBER(J)

U

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.NO.650 OF 2012

Cuttack this the 20th day of February, 2013

CORAM:

HON'BLE SHRI A.K.PATNAIK, MEMBER(J)

HON'BLE SHRI R.C.MISRA, MEMBER(A)

Anadi Muna, aged about 53 years, S/o. late khuki muna, Vill-Phapsi, New Bhadra, PO-Gandapatrapali, PS-Saintala, Dist-Bolangir, now working as Labourer in Ordnance Factory, Badmal, Dist-Bolangir

...Applicant

By the Advocates: M/s. L. Pradhan

D.P. Das

A.K. Hota

D.P. Das

-VERSUS-

Union of India represented through

1. Secretary, Department of Defence(Production), Ministry of Defence, Govt. of India, South Block, DHQ, New Delhi-110 011
2. Secretary, Ordnance Factory Board, Section: A/1, 10 A.S.K. Bose Road, Kolkata-700 001
3. General Manager, Ordnance Factory, Badmal, Dist-Bolangir-767 770
4. Joint General Manager, Administration, Ordnance Factory, Badmal, Dist-Bolangir-767 770
5. Works Manager/AM-1, Ordnance Factory, Badmal, Dist-Bolangir-767 770

...Respondents

By the Advocates: Mr. U.B. Mohapatra, SSC



ORDER**SHRI R.C.MISRA, MEMBER(A):**

This Original Application has been filed by one Sri Anadi Muna before this Tribunal with a prayer for correction of his date of birth as 18.12.1958 instead of 18.2.1953 in his Service Book on the basis of the certificate of C.D.M.O., Bolangir and the admission of the Respondents, i.e., the authorities of the Ordnance Factory Board, Badmal that the mention of 18.2.1953 is a clerical/typographical error.

2. The facts of the case are that the applicant was appointed as a Sweeper at Ordnance Factory, Badmal on 10.3.1988 as a displaced person, and has been working in the re-designated post of Labourer. He is an illiterate person, and consequently, had no educational qualification certificate to serve as proof of his age. He was examined by the CDMO, Bolangir on 10.3.1988, and the Certificate issued by the C.D.M.O. showed his date of birth as 18.12.1958 and his age as about 30 years by appearance. This has been filed as Annexure-A/2 of this Original Application. The applicant on joining his duties was issued with a Permanent All India Pass showing his date of birth as 18.12.1958, copy of which is filed as Annexure-A/3. Subsequently,



however, in his Service Book the date of birth was shown to be 18.2.1953. The applicant avers that he came to know about this three years after his joining and thereafter approached the authorities with a prayer to reflect the correct date of birth i.e., 18.12.1958 in the Service Book, by making suitable corrections. Incidentally, the applicant has filed a copy of his on-line Service book as Annexure-A/4 of his O.A. At Annexure-A/5, he has filed a copy of his Factory Gate Pass wherein his date of birth is printed as 18.2.2053; the year mentioned being outright an error.

3. After a number of personal approaches, in response to his representation dated 16.8.2009, the General Manager of the Ordnance Factory Board constituted a Board of Enquiry which looked into the matter and came to a finding that the entry of 18.2.1953 as Date of Birth was a clerical/typographical error, and that the Medical Certificate of C.D.M.O., Bolangir having mentioned 18.12.1958 as the Date of Birth should be accepted as the applicant's date of birth. The applicant was referred for further medical examination to CMO/OFBL Hospital, who remarked that the age of the applicant had been

assessed as about 30 years by CDMO, Bolangir in 1988 which would be much more accurate than any present examination would reveal. Based upon the findings as stated above, the Works Manager of the Ordnance Factory wrote to the Secretary, Ordnance Factory Board on 25.10.2010 recommending correction in date of birth since it was necessitated by clerical/typographical error and sought his advice/approval. This letter is filed as Annexure-A/6 of the O.A. There was no response from the Secretary, Ordnance Factory Board, even though two more reminders were sent. In the absence of any response, the Joint General Manager, intimated the applicant on 7.11.2011 that his request for change in his date of birth could not be entertained since it is time barred as per extant rules (Annexure-A/8 of the O.A.)

4. The circumstances of the case as gleaned from the Original Application and the copies of the documents filed are narrated above. The claim of the applicant is that the concerned authorities have clearly admitted that there has been an administrative mistake in this case, as established in the Board of Enquiry Report. In a case where

2

a typographical/clerical error has been admitted by the authorities, and the applicant is in no way responsible, the correction of date of birth on the basis of C.D.M.O's certificate in the year 1988 becomes incumbent upon the concerned authorities. As regards the long lapse of time in raising the claim, the applicant has submitted that he is an illiterate land oustee, had no knowledge that the entry of date of birth in the Service Book was different from that in the All India Pass issued to him and on getting to know this had immediately approached the authorities with his prayer. His strong submission is that why should an innocent employee lose years of service, on account of a mistake made by the office.

5. In the counter submitted by the Respondents the facts as narrated by the applicant are fairly admitted. There seems to be no controversy about the facts of the case. They have, however, drawn our attention to two documents. The first (Annexure-R/1) is the letter of the Junior Employment Officer, Titilagarh in which several names have been forwarded including that of the applicant, and the applicant is shown as born in 1953. The second document is the appointment



letter of 1988 which shows 18.2.1953 as the date of birth of the applicant. They have drawn our attention to the relevant Rules as published in Swamy's Hand Book-2012 as produced below.

"Subsequent alteration of date of birth:

An alteration of date of birth can be made, with the sanction of a Ministry/Department of the C.& A.G. in the case of IAAS or an Administrator of a UT, if –

- (a) an employee makes a request in this regard within five years of entry into Govt. service
- (b) it is clearly established that genuine bona fide mistake has occurred.
- (c) the date of birth so altered would not make him eligible to appear in any school or University or UPSC examination in which he had appeared, or for entry into Govt. service on the date of which he first appeared at such examination or on the date of entry into Govt. service.

6. Our attention has again been drawn to the DOP&T O.M. dated 19.5.1993(Annexure-R/4). This O.M. lays down that inordinate and unexplained delay on the part of a Govt. employee to seek correction

2

in date of birth and his long inaction would preclude him from showing that the entry of his date of birth in the service record was not correct, as per the judgment dated 9th February, 1993 of the Hon'ble Supreme Court of India in C.A.No.502 of 1993 – Union of India vs. Harnam Singh.

7. There is no doubt that this matter has come up before us for adjudication when the applicant is on the verge of retirement, and clearly as per the extant Rules, after a long lapse of time he would not be justified in raising a claim of change in the date of birth. But, as already mentioned, in this case the various service records of the applicant as maintained by the authorities reveal discrepancies with regard to entry on date of birth. Even the entries in the All India Pass and the Factory Gate Pass, show a ^{match} ~~mistake~~, and strangely, in the factory gate pass the year of birth is shown as 2053. Obviously, there are several instances of erroneous entry for which the administrative authorities are responsible, and the applicant is not to blame, particularly, when it is admitted that he is an illiterate employee, and a



displaced land oustee. Inconsistent entries are obviously to be blamed upon the concerned authorities.

8. We may now have a look at the reliability of various documents. The list forwarded by the Junior Employment Officer (Annexure-R/1) contains various names, and it is seen that an approximate year of birth is mentioned in case of illiterate candidates, obviously because there was no educational certificate to go by. Thereafter, the authorities have sent the applicant for medical examination by C.D.M.O., Bolangir, and the medical examination report (Annexure-A/2) shows the date of birth as 18.12.1958 and approximate age as 30 years as on 10.3.1988. This is an expert's opinion, and would be considered a reliable document, and in fact, the authorities have prepared the All India Pass of the applicant (Annexure-A/3) on the basis of the CDMO's certificate. However, in subsequent documents like service record, etc., the position has been altered. Coming to the proposal sent by the Works Manager to the Secretary, Ordnance Factory Board (Annexure-A/6), it is a self-contained proposal based upon the findings of a Board of Enquiry constituted by the authorities



and also the opinion of CMO/OFBL Hospital on a further reference. It is the clear finding of the Board of Enquiry that the mention of 18.2.1953 as date of birth is a clerical/typographical error and it should be corrected as 18.12.1958. It is unambiguously clear that the administrative authorities have admitted the mistake and moved the higher authorities, but have not got any advice or instruction. The position can not be controverted by the respondents.

9. For further verification of facts, we had requested the learned Senior Central Govt. Standing Counsel to obtain and produce the Original Service Book of the applicant and the same is before us for perusal. It is seen that on the bio-data page of the Service Book, the first entry against date of birth was 18.12.1958. But this entry has been struck off, and another entry of 18.2.1953 has been made. This correction is very visible to the naked eye. This raises suspicion about the way in which the matter was handled. Question arises as to at what stage the entry was changed, and under whose orders ? Was the applicant informed at that stage and the requirement of natural justice fulfilled ? One thing is clear that the original entry was

which of
A
L

18.12.1958 was struck off under some circumstances, ^{and} the entry of 18.12.1953 was made without an opportunity being given to the applicant to contest the correction. Another discrepancy comes to light. The Online Service Book of the applicant (Annexure-A/4) is very much different in this regard from the Original Service Book. The online Service Book reflects only the altered entry in the original Service Book in so far as date of birth is concerned. If we go by the original Service Book only, it is very obviously established that the concerned authorities have made alteration of the entries, which appears unauthorized, since there is no order of the competent authority on which it is based. The admitted fact is that the employee here is illiterate, and needed to be provided with information, and opportunity to put forth his case.

10. When we traverse the path of the case, we wonder little that the Board of Enquiry constituted by the authorities have come to a finding that it is a typographical/clerical mistake and recommended for its rectification. Even though the matter has been agitated very late, it falls into the category of clerical/typographical error. Having received



no response from the Secretary, Ordnance Factory Board, after several reminders, the Joint General Manager(Admn.) has with the approval of the General Manager, written to the applicant on 03/07.11.2011(Annexure-A/8) that his request has been summarily rejected, as being time-barred.

11. Having regard to the detailed discussion above, and to the entries in the various service records produced before us, we have come to a finding that the respondents, viz., the authorities of the Ordnance Factory Board have to go by the original entry in the Service Book of the applicant, i.e., 18.12.1958, which is based upon the CDMO's certificate issued in the year 1988. Accordingly, Annexure-A/8 is quashed.

The O.A. is allowed. Parties to bear their own costs.


(R.C.MISRA)
MEMBER(A)


(A.K.PATNAIK)
MEMBER(J)

BKS