

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

O.A. 1231 of 96

Present : Hon'ble Mr. D. Purkayastha, Judicial Member.

Samarendra Nath Gayen,  
son of Late Mahendra Nath Gayen,  
attached to the Office of Branch  
Post Office, Dabuapukur, having  
its office at Village & Post Office  
Dabuapukur, Police Station-Panskura,  
District-Midnapore, West Bengal.

...Applicant.

- v e r s u s -

1. The Union of India, service  
through the Secretary, Department  
of Post, Dak Bhawan, New Delhi-110011.
2. The Postmaster General,  
Howrah Region, Yogayog Bhavan,  
P-36, Chittaranjan Avenue,  
Calcutta-700 012.
3. The Superintendent of Post  
Offices, Tamluk Division,  
Post Office-Tamluk, District-  
Midnapore.
4. The Inspector of Post Offices,  
Panskura Sub-Division, Post Office-  
Panskura, District-Midnapore.
5. The Postmaster,  
Dabuapukur Branch Poste Office,  
Village & Post Office-Dabuapukur,  
District-Midnapore.

...Respondents

For the applicant : ~~Mr. A.N. Dhole~~, counsel.  
Mr. R.P. Pal, counsel.

For the respondents : Mr. S.P. Kar, counsel.

Heard on 19.2.99

Order on 19.2.99

O R D E R

D. Purkayastha, JM

This application has been filed by one Sri Samarendra Gayen challenging the validity of the notice of retirement dated 24.1.96 (Annexure-C to the application) by which respondents intimated the applicant that he would be retired on 9.10.96 (A/N) since his date of birth as recorded in his Service Book is 10.10.1931.

2. According to the applicant, he came to know about his date of birth from the provisional seniority list published by the Deptt. in 1990. Thereafter he made representation to the authorities on 22.3.90 (Annexure-B to the application) for correction of the date of birth on the basis of the school leaving certificate i.e. transfer certificate issued by Head Master Raghunathbari R.T. High School. His date of birth shown in the said school leaving certificate is 17.8.1935. But the respondents without considering the representation alongwith the copy of the school leaving certificate passed an order of retirement of the applicant from the service w.e.f. 9.10.96. The applicant further stated that as per date of birth recorded in the school leaving certificate he was scheduled to be retired on 16.10.2000 A.D. Thereby action of the respondents is arbitrary, illegal and violative of the principle of natural justice and such order has affected the right of contention of the service of the applicant.
3. The respondents filed written statement denying the claim of the applicant. It is stated by the respondents in the reply that the applicant at the time of his initial appointment in service as EDMC furnished his date of birth as 10.10.1931. It is also stated by the respondents that on the basis of the said date of birth the applicant was appointed in the service. But if the applicant would have disclosed his date of birth as 17.8.1935 on the basis of the school leaving certificate he would not have been selected in the said post since on the basis of the said date of birth the applicant <sup>was</sup> found to be minor. Therefore, the applicant was rightly ordered to be retired from service in accordance with the correct date of birth as recorded in his Service Book.
4. Mr. Pal, Id. counsel being led by Mr. dhole, Id. counsel for the applicant submits that the applicant did not know the date of birth as recorded in the Service Book and the applicant came to know his date of birth as recorded in the Service Book only from the gradation list published by the Department in the year 1990. Thereafter he produced school leaving certificate alongwith his representation for consideration of the Deptt. But nothing was done by the respondents. But during enquiry it was found that the school leaving certificate produced by the applicant was genuine. Thereby the school leaving certificate being

genuine document cannot be brushed aside by the respondents for the purpose of retirement from the service. Ld. counsel Mr. Pal also relies on the decision reported in 1991(1) CLJ 93 Nihar Ranjan Bhowmick Vs. State of W.B. Ld. counsel Mr. Pal further contended that on the basis of the ~~matriculation~~ certificate produced by the applicant, the applicant was due to be retired on 16.10.2000 A.D. Thereby the right of continuation in the service of the applicant had been adversely affected due to issuing of notice of retirement w.e.f. 9.10.96. So the application should be allowed with a direction upon the respondents to reinstate the applicant forthwith or to grant all benefits of the service from the date of termination of the service w.e.f. 9.10.96.

5. Mr. Kar, Id. counsel appearing on behalf of the respondents submits that at the time of entering into the service the applicant made a declaration and as per his declaration, his date of birth was recorded as 10.10.1931. Mr. Kar, Id. counsel further submits that the applicant did not raise any objection regarding the date of birth till the issue of notice of retirement to the applicant. It is submitted by Id. counsel Mr. Kar that if the applicant would have declared the date of birth as 17.8.1935 on the basis of his school leaving certificate he would not have been selected in the post since he <sup>would have been</sup> ~~was~~ found minor. So the applicant is guilty for suppression of the material fact. Therefore, according to his own admission he is not entitled to get benefit of school leaving certificate after lapse of 39 years. So the application is liable to be dismissed.

6. I have considered the submission of the Id. counsel of both the parties on that score. Respondents produced the service book of the applicant alongwith the attestation form which was maintained by the Department in the Service Book on the basis of the declaration given by the applicant at the time of entry in the service. It is found that the applicant made a suo moto declaration at the time of entry into the service that his date of birth was on 10.10.1931 and the said declaration is found to be attested by a responsible officer. But it is seen that he obtained the school leaving certificate from the school

in the year of 1990. He did not produce the same before the authority claiming correction of the date of birth. He slept over the matter more than ~~30~~ years.

7. I have considered the submission of the Id. counsel of the applicant and have gone through the judgment of the Hon'ble High Court of Calcutta reported in 1991 (1) CLJ 93 which does not help the applicant in view of the recent judgment delivered by the Hon'ble Apex Court in the case of State of Tamil Nadu Vs. T. V. Venugopalan (JT 1994 (5)) SCC 337, it has been held no over indulgence should be shown in granting the reliefs of change of date of birth when such request is made at the fag end of the service by an employee. It is seen that the filed application in the year 1990 just to gain time to continue in the service, though he got certificate before entering into the service.

8. According to Mr. Kar, Id. counsel for the respondents, the said declaration regarding the date of birth was made by the applicant at the time of entry into the service amounts to admission and has some evidenciary value and on the basis of the declaration and descriptive particulars his date of birth recorded was on 10.10.1931. Subsequently, the applicant also confirmed the said date of birth as it appears from his representation dated 22.3.1990 ( Annexure-B to the application). Thereby in view of the reasons stated above, the applicant cannot be permitted to correct the date of birth on the basis of the school leaving certificate at the fag end of the career of his service.

9. The Hon'ble Apex Court in Union of India Vs. Harnam Singh 1993 SCC (L&S) 375 has further held that-

" Even where no period of limitation is fixed, the request must be made within a reasonable time and a limit of 5 years from the date of entry into the office would be a reasonable time."

In view of the aforesaid reasons, I find that the application is devoid of merit and, therefore, liable to be dismissed. Accordingly the application is dismissed.

10. No order is passed as to costs.

  
( D. Purkayastha )