

In the Central Administrative Tribunal  
Calcutta Bench

OA No.517 of 1997

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

Khagendra Nath Bhakta ..... Applicant

Vs.

- 1) Union of India through the  
General Manager, S.E. Rly.Cal.
- 2) Sr. Divisional Personnel Officer,  
S.E. Railway, Kharagpur.
- 3) Chief Bridge Inspector, Kolaghat,  
S.E. Railway.
- 4) Assistant Engineer(Bridge), S.E.  
Railway, Kolaghat.

..... Respondents

For the Applicant : Mr. A. Chakraborty, Id. Advocate

For the Respondents : Mr. P. Chatterjee, Id. Advocate

Heard On : 14.7.98

Date of Judgement : 14.7.98

ORDER

This is an application for correction of the date of birth of the applicant who was serving as Grade I Fitter under C.B.R.I. (Kolaghat), South-Eastern Railway. According to the applicant, as per service records his date of birth was recorded as 6.12.41; but he obtained school leaving certificate from the recognised School known as Deulia Hiraram High School, Dist: Midnapore on 8.4.94 (Annexure 'A' to the applicant) which shows that his date of birth should be 5th August, 1943. Accordingly, he applied for correction of his date of birth by a letter dated 8.4.96 (Annexure 'A' to the application) and he enclosed a copy of the school leaving certificate along with the application. On receipt of the said representation, the Senior Personnel Officer for Chief Personnel Officer, Garden Reach, Calcutta

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wrote a letter to the Divisional Manager(P), S.E. Railway dated 17.7.96 (Annexure 'A/1') to examine the case and furnish the detailed remarks at the early date to enable his office to make necessary correction in this regard. Thereafter, the applicant was informed by a letter dated 22.1.97 (Annexure 'B' to the application) that his case was considered and examined carefully by the authority who has passed the following remarks :

"It is a settled principle that DOB cannot be reopened after a lapse of so many years. This has been upheld by both Hon'ble CAT and the Appex Court".

2. Being aggrieved by and dissatisfied with the said order dated 22.1.97 (Annexure 'B' to the application) the applicant approached this Tribunal for direction upon the respondent to correct his date of birth as per school leaving certificate (Annexure 'A/1') obtained by him on 28.11.94. According to the applicant, the said decision communicated to the applicant is wholly arbitrary and illegal and liable to be quashed.

3. Respondents did not file any reply to the OA; but Id. Advocate Mr. Chatterjee on behalf of the respondents submits that as per judgement of this Tribunal in OA 846 of 1990 and as per judgement of the Supreme Court reported in AIR 1995 SCC 1349, the applicant's case should not be considered for necessary direction as sought for, since it is a case of belated one. Hon'ble Supreme Court in this case reported in AIR 1995 SCC 1349 (Union of India Vs. Kantilal Hematram Pandya) held that correctness and genuineness of the certificate produced is not free from doubt and unexplained delay in filing the delayed application should be <sup>✓ not entertained</sup> explained for correction of the date of birth. Id. Advocate Mr. Chatterjee submits that in view of the aforesaid judgement, application should not be admitted for hearing and liable to be dismissed. Id. Advocate Mr. Chakraborty for the applicant submits that the school leaving certificate (Annexure 'A/1') is

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a material evidence and this certificate ought to have been taken into consideration by the respondents in pursuant to the letter dated 17.7.96 (Annexure 'A/1'). So, decision dated 22.1.94 (Annexure 'B') is not tenable.

4. I have heard the submissions of Ld. Advocates of both the parties and it is found that applicant entered into the service in the year i.e. 24.12.67 and <sup>she</sup> slept over the matter in respect of correction of date of birth till 1996. According to the applicant, he obtained the school leaving certificate on 28.11.94. From the Annexure 'A/1' to the application it is found that he paid fees upto 31.12.56, so it can be said that he left school after 31.12.56 before getting the job in the year of 1967; because he did not pay any dues after 31.12.56. No explanation whatsoever has been given by the applicant for non-obtaining the certificate from the said School Authority during the period upto 28.11.94. Such laches of delay remains unexplained in the application. So, controversy of correction of date of birth after lapse of several years as per decision of the Hon'ble Supreme Court is no longer res-integra. In the instant case I find that no explanation has been put forward by the applicant for non-obtaining the certificate from the school authority before 28.11.94. So, the certificate is not free from <sup>any</sup> doubt. So, such burden lies with the applicant to prove the genuineness of the certificate by explaining the inordinate delay stated above. The applicant has <sup>to</sup> ~~to~~ <sup>failed to discharge</sup> ~~prove~~ that burden. In view of the aforesaid circumstances, I have gone through the impugned order dated 22.1.97 (Annexure 'B'). On perusal of the said order, it is found that refusal of correction of date of birth as sought for, has been <sup>made</sup> ~~reasonably~~ made with cogent reason thereof. In view of the aforesaid reason, I find no merit in the application for admission. Hence, the application is rejected awarding no cost.

*H. K. Jain 198*  
( D. Purkayastha )  
Member (J)