

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 458 of 2004

Tuesday, this the 22nd day of June, 2004

CORAM

HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

1. P.M. Leela,
Waiting Room Attendant,
Southern Railway,
Palakkad Junction.Applicant

[By Advocate Mr. T.A. Rajan]

Versus

1. Union of India, represented by the
General Manager, Southern Railway,
Chennai.
2. The Divisional Railway Manager,
Southern Railway, Palakkad.
3. The Senior Divisional Personnel Officer,
Southern Railway, Palakkad.Respondents


[By Advocate Smt. Rajeswari Krishnan]

The application having been heard on 22-6-2004, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

The applicant averred in the OA that she is working as a Waiting Room Attendant in the Palakkad Junction of Southern Railway and was initially appointed as Water Carrier on compassionate grounds on 6-6-1986. She alleged in the OA that she started her school education in the BMHES, Vengara and her date of birth is 1-7-1947, which was correctly recorded in the school registers. Annexure A1 is the extract of the Admission Register of the applicant. While the applicant was studying in 6th standard, the school was upgraded and renamed as Government Girls High School, Vengara and she was automatically transferred to the said school. However, inadvertently the



school authorities recorded the date of birth as 1-7-1944 as against the correct date of birth 1-7-1947. She joined the service by producing the transfer certificate obtained from the Government Girls High School, Vengara, in which the date of birth was shown as 1-7-1944. The wrong date of birth recorded in the said certificate was not noticed then. There was no occasion for her to see the mistake earlier and she was under the bonafide belief that the date of birth recorded in the service register is her correct date of birth. But, surprisingly, the applicant happened to see a Gazette by which the the applicant has to be retired from service on 30-6-2004, due to her date of birth as 1-7-1944. Immediately the applicant submitted Annexure A2 representation to the 2nd respondent, which was rejected by the 3rd respondent by Annexure A3 order. Aggrieved by the inaction on the part of the respondents, the applicant has filed this OA seeking the following reliefs:-

- "i) to call for the records leading to Ann. A-3 and set aside the same;
- ii) to declare that the applicant is entitled to continue in service till 30.6.2007 on the basis of her correct date of birth viz. 1.7.1947;
- iii) to direct the respondents to correct the date of birth of the applicant in the service record as 1.7.1947 and direct further to continue her in service based on the said corrected date of birth, and
- iv) to grant such other reliefs as deemed fit and necessary by this Hon'ble Tribunal in the facts and circumstances of the case."

2. When the matter came up for hearing, Smt. Rajeswari Krishnan took notice for the respondents. Mr. T.A. Rajan representing M/s Santhosh and Rajan, learned counsel appeared for the applicant.



3. Learned counsel for the applicant submitted that had the applicant known the erroneous recording of the date of birth as 1-7-1944 she would have made efforts to get it corrected at the earliest opportunity, which was denied to her since she has been kept under dark. Only the Gazette publication has brought to light of such a mistake, which is sought to be rectified. Rejection of the representation submitted by the applicant is not in conformity with the rules and natural justice.

4. Learned counsel for the respondents, on the other hand, submitted that the representation has been examined by the competent authority and the certificate showing the date of birth has been perused and it is found that at the time of appointment the applicant has produced a certificate from the Headmaster, Government Girls High School, Vengara stating that her date of birth is 1-7-1944. Throughout her service she has accepted the same and as per Rule 225(1), the date of birth once recorded cannot be altered at this distant date. Hence, the request of the applicant has been rightly rejected.

5. I have heard Shri T.A.Rajan, learned counsel for the applicant and Smt.Rajeswari Krishnan, learned counsel for the respondents. It is an admitted fact that at the time of entry to the department the applicant has produced a certificate stating that her date of birth is 1-7-1944. The contention of the applicant that she came to know about the wrongful entry in the certificate only through the Gazette publication, even assuming it is true, cannot be accepted, since Rule 225(1) of the Indian Railway Establishment Code Vol.I does not permit an employee to claim such a benefit. For better elucidation the relevant rule is reproduced as under:-

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"225. Date of birth.--(1) Every person, on entering railway service, shall declare his date of birth which shall not differ from any declaration expressed or implied for any public purpose before entering railway service. In the case of literate staff, the date of birth shall be entered in the record of service in the railway servant's own handwriting. In the case of illiterate staff, the declared date of birth shall be recorded by a senior railway servant and witnessed by another railway servant."

6. The procedure that should have been adopted and a mere representation at the fag end of the retirement, according to me, cannot be a reason for extending the period of service for three years. To fortify the said proposition it is profitable to mention a decision of the Hon'ble Supreme Court reported in State of Tamil Nadu vs. T.V.Venugopalan [(1994) 6 SCC 302], where a dictum has been laid down that such claims would not be permitted to challenge at the fag end of the service of an employee and further stated that application for such correction would be entertained only if made within five years from the date of entry of the applicant to the service and otherwise, he will lose his right.

7. Considering the above legal position and the facts of the case, I am of the view that the applicant is not entitled for any relief as claimed and therefore the OA is to be dismissed.

8. Accordingly, I dismiss the Original Application. In the circumstances, there is no order as to costs. However, at the request of the learned counsel for the applicant, a copy of this order will be issued to him today itself.

Tuesday, this the 22nd day of June, 2004



K.V. SACHIDANANDAN
JUDICIAL MEMBER