

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.72/2001

Friday, this the 19th day of January, 2001.

CORAM:

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

Sreejith.S.
Superintendent of Police,
Kasaragode,
Permanent address:
5/749, Sreeragam,
Garichan Road,
Eranjipalam,
Calicut-673 006.

- Applicant

By Advocate Mr Poly Mathai

Vs

1. State of Kerala represented by
Chief Secretary,
Thiruvananthapuram.
2. Secretary,
General Administration Department,
State of Kerala,
Thiruvananthapuram.
3. Director General of Police,
State of Kerala,
Thiruvananthapuram.
4. Union of India represented by
the Secretary,
Ministry of Home Affairs,
New Delhi.
5. Secretary,
Department of Personnel & Training,
New Delhi.

- Respondents

By Advocate Mr CA Joy, G.P.(for R.1 to 3)

By Advocate Ms I Sheela Devi, ACGSC(for R.4 & 5)

The application having been heard on 19.1.2001, the Tribunal
on the same day delivered the following:



O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

The applicant while working as Preventive Officer in the Customs Department, appeared in the Civil Service Examination and on being successful, he was allocated to Indian Police Service, Kerala Cadre. Tendering his technical resignation from the Customs Department, on 3.9.96, he joined the service to which he was allocated and on completion of the training. He joined as Assistant Superintendent of Police(Training), Thrissur in July, 1998. Presently he is working as Superintendent of Police. The date of his birth as entered in his SSLC book was 14.5.68. He therefore, gave that date as the date of his birth in his application form for the Civil Services Examination. The said date was accepted as the date of his birth by the Central Government when he joined the IPS. While he was in the Customs Department, he had taken steps to get the date of his birth in the SSLC certificate amended as according to him, the correct date of his birth was 14.9.68. The Commissioner of Government Examinations, Thiruvananthapuram vide his office order dated 22.12.98, ordered the Secretary to the Commissioner for Government Examinations to carry over necessary corrections regarding the date of birth of the applicant in the SSLC book as 14.9.68. Thereafter the applicant submitted a representation to the first respondent for alteration of his date of birth as 14.9.68 in place of 14.5.68. The request made in the said representation was not acceded to and the first respondent passed the impugned order A-1 dated 1.1.2000 by which the applicant was told that his request would not be acceded to

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because in view of Rule 16A of All India Services(DC) Rules, only bonafide clerical mistakes committed in accepting the date of birth would be corrected and in the case on hand, there was no such mistake in accepting the applicant's date of birth. Aggrieved, the applicant has filed this application praying that the impugned order be set aside declaring that the applicant is entitled to get his date of birth corrected in the service records as per A-2 order and to direct the respondents to correct the date of birth of the applicant in his service records.

2. We have perused the application and A-1 and A-2 appended thereto and have heard Shri Poly Mathai, learned counsel for the applicant Shri CA Joy, G.P. appearing for R.1 to 3 and Smt I Sheela Devi, ACGSC appearing for R.4&5.

3. Rule 16-A as amended in 1971 of the All India Services (Death-cum-Retirement Benefits) Rules, 1958 is extracted below for the purpose of reference:

"Acceptance of date of birth - (1) For the purpose of determination of the date of superannuation of a member of the service, such date shall be calculated with reference to the date of his birth as accepted by the Central Government under this Rule.

(2) In relation of a person appointed, after the commencement of the All India Services

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(Death-cum-Retirement Benefits) Amendment Rules, 1971,

a) the Indian Administrative Service under Clause(a) or clause (as) of sub-rule (1) of Rule 4 of the Indian Administrative Service(Recruitment) Rules, 1954: or

b) the Indian Police Service under clause(a) or clause (aa) of sub-rule(1) of Rule 4 of the Indian Police Service(Recruitment) Rules, 1954; or

c) the Indian Forest Service under clause(a) or clause (aa) of sub-rule (2) of Rules of the Indian Forest Service(Recruitment) Rules, 1966;

the date of birth as declared by such person in the application for recruitment to the service shall be accepted by the Central Government at the date of birth of such person.

(3) In relation to a person to whom sub-rule(2) does not apply, the date of birth as recorded in the service book or other similar official document maintained by the concerned government shall be accepted by the Central Government, as the date of birth of such person.

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(4) The date of birth as accepted by the Central Government shall not be subject to any alteration except were it is established that a bona fide clerical mistake has been committed in accepting the date of birth under sub-rule(2) or (3)."

(Emphasis supplied)

4. A reading of clause(4) of the Rule would make it abundantly clear that the date of birth as accepted by the Central Government shall be subject to any alteration only if it is established that a bona fide clerical mistake had been committed in accepting the date of birth under Rule 2 or 3. According to sub-rule(2), the date of birth as declared by the candidate in the application for recruitment to the service has to be accepted by the Central Government as date of his birth. In the application form, admittedly, the applicant had mentioned his date of birth as 14.5.68. This has been accepted in the case of the applicant by the Central Government and as the date of birth declared in the application form was 14.5.68. Under these circumstances, it cannot be seriously argued that there was any clerical mistake in accepting the date of birth by the Government. As the provisions of the Rules are so clear, and incapable of any other interpretation, we are of the considered view that there is no scope for further deliberation of this issue.

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5. In the light of what is stated above, finding that the impugned order cannot be faulted, even *prima facie*, the application is rejected under Section 19(3) of the Administrative Tribunals Act. No costs.

Dated, the 19th of January, 2001.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



~~A.V. HARIDASAN~~
A.V. HARIDASAN
VICE CHAIRMAN

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LIST OF ANNEXURES REFERRED TO IN THE ORDER:

A-1: True copy of the Order No.108288/Sp1.A3/99/GAD dated 1.1.2000 issued by 3rd respondent.

A-2: True copy of the Letter Order No.K. Dis.B5-12201/96 dated 22.12.1998 of the Commissioner for Government Examinations, Thiruvananthapuram.