

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**ERNAKULAM BENCH**

**Original Application No. 186 of 2013**

TUESDAY, this the 04<sup>th</sup> day of June, 2013

**CORAM:**

**Hon'ble Mr. K. George Joseph, Administrative Member**

N. Dasan, aged 55 years, S/o. Nallathambi,  
Ex-Casual Labourer, Southern Railway,  
Trivandrum Division,  
Residing at Ooranvilayil Veedu,  
Kannancode, Marthandom.

..... **Applicant**

**(By Advocate – Mr. Martin G. Thottan)**

**V e r s u s**

1. Union of India, represented by  
The General Manager, Southern Railway,  
Headquarters Office, Chennai-3.
2. The Senior Divisional Personnel Officer,  
Southern Railway, Trivandrum Division,  
Trivandrum-14.

..... **Respondents**

**(By Advocate – Mr. K.M. Anthru)**

This application having been heard on 30.05.2013, the Tribunal on  
04-06-2013 delivered the following:

**ORDER**

The applicant is a retrenched casual labourer of Trivandrum Division of Southern Railway having 1071½ days of casual service. As per order of this Tribunal in OA No. 85 of 2008 (Annexure A1) the respondents were directed to subject the applicant for re-medical examination and to re-assess his medical fitness and on that basis to offer him the Group-D post for which the lower medical classification in which he had been placed was



sufficient. He was not considered for absorption doubting the genuineness of the birth certificate produced by him. In OA No. 470 of 2012 this Tribunal directed the 2<sup>nd</sup> respondent to verify the genuineness of the birth certificate (Annexure A2) by deputing an officer from his office and to further consider the applicant for absorption based on Annexure A1 order of this Tribunal. On the ground that the birth certificate produced by the applicant was based on the tampered original records, the said certificate was not accepted as genuine and the applicant was denied absorption vide Annexure A4 order dated 11.1.2013. Aggrieved the applicant has filed this OA for the following reliefs:-

- "i) To call for the records leading to the issue of Annexure A4 and quash the same.
- ii) To direct the respondents to consider the applicant for absorption in a Group 'D' post in pursuant to the directions in Annexure A1 order passed by this Hon'ble Tribunal with all consequential benefits.
- iii) Award costs of and incidental to this application.
- iv) Grant such other relief, which this Honourable Tribunal may deem fit and proper in the circumstances of the case."

2. The applicant contended that the 2<sup>nd</sup> respondent is estopped from inventing reasons to repudiate Annexure A2 birth certificate issued by the competent authority in accordance with law. The respondents are bound to act upon Annexure A2 birth certificate after having verified that the same is issued by the competent authority.

3. As regards the birth certificate produced by the applicant the respondents submitted that the original birth and death register produced by the Kuzhithurai Municipality was perused by the APO on 3.1.2013 in the



presence of the Commissioner of the said municipality. It was seen from the entries therein that the names of father and mother pertaining to serial No. 198 dated 3.7.1957 showing the date of birth of the male child as 12.5.1957 were altered and entered as Nalla Thampi and Rachel respectively and the name of the child had been entered as Dhasan N at a later time. It is also submitted that Annexure A2 certificate was issued only on the basis of altered record. The authorities stated that they had as per letter dated 6.11.2009 advised earlier that the birth certificate dated 28.7.2009 issued was not genuine. Annexure A2 was also issued only on the basis of the tampered records and it cannot be accepted as a genuine one in the proof of date of birth of the applicant. Hence, the impugned order cannot be faulted with.

4. I have heard the learned counsel for the parties and perused the records.

5. The applicant is not granted an appointment on the ground that the birth certificate submitted by him is based on what respondents hold to be tampered original records. The birth certificate at Annexure A2 is issued by the Kuzhithurai Municipality on 29.8.2011. It was verified by an officer deputed by the 2<sup>nd</sup> respondent in the presence of the Municipal Commissioner. As per Annexure R1 letter dated 3.1.2013 by the Commissioner of Kuzhithurai Municipality the certificate is correct. Annexure R1 is reproduced as under:-



**"MUNICIPAL ADMINISTRATION AND WATER SUPPLY  
DEPARTMENT**

From  
Thiru. M. Thangaswamy,  
Commissioner,  
Kuzhithurai Municipality,  
Marthandam Post.

To,  
The Divisional Office  
Personnel Branch,  
Trivandrum-14.

Roc. No. 353/2012/A2, dated 3.1.2013

Sir,

Sub.: Genuineness of Birth Certificate-Kuzhithurai Municipality-Shri N. Dasan, Kannacode-Report called for-submitted-Regarding.

Ref.: Letter No. V/P-OA-470/2012/36, dated 10-12-2012 of Southern Railway Divisional Office (Personnel Branch) Trivandrum.

In response to the letter cited I wish to state that the following facts on the issue of Birth Certificate of Shri N. Dasan for Perusal and record.

The Birth Certificate of Shri N. Dasan, mentioned in your document as Annexure-5 has been issued by Kuzhithurai Municipality based on the original Birth register maintained in our office. At the time of verification the extract of the certificate is correct. But in the original register it has been noticed that a correction in the name of father and an alteration in the name of Mother has been made in the original register before issuing this Birth Certificate. Further the name of the individual has been registered at an later date. The Xerox copy of the original registration is enclosed for ready reference.

This is submitted for kind information.


Sd/-  
3/1/13  
Commissioner  
Kuzhithurai Municipality"

(emphasis supplied)

6. There is nothing in the letter of the Commissioner to suggest that the original birth register is tampered with. He has stated that a correction in the name of the father and an alteration in the name of the mother were made in the original register before issuing the birth certificate to the applicant. The

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name of the individual had been registered at a later stage. Alteration in the name of the father or change in the name of the mother or registering the name of the individual on a later date perse does not amount to tampering with the birth register. Correction is a change that makes something more accurate than it was before. Alteration is a change to something that makes it different. Tampering is changing something without permission, especially in order to damage. The correction, alteration and registration of the name later as stated by the Commissioner do not lead a man of ordinary prudence to hold that the original record had been tampered with. Correction and alteration can genuinely happen. The correction, alteration and later entry of name were not considered as tampering with original records by the competent authority. Mere suspicion in the mind of the 2<sup>nd</sup> respondent is not a legally valid ground for holding the original records as having been tampered with, when the Commissioner himself does not have such suspicion. As rightly contended by the counsel for the applicant the respondents are bound to act upon Annexure A2 birth certificate after having verified that the same was issued by the competent authority in accordance with law. Letter dated 6.11.2009 advising earlier that the birth certificate dated 28.7.2009 issued by the Municipality was not genuine is not relevant in this case and if at all it is held to be relevant, a copy of the same is not produced. Annexure A2 birth certificate is issued by the Kuzhithurai Municipality on 29.8.2011. It is not the case of the respondents that the competent authority issued bogus birth certificates. It has not been legally proved that Annexure A2 birth certificate is based on the tampered original record. There is also no case that the competent authority had not



satisfied itself with the genuineness of the correction, alteration and late entry of the name before they were made. Hence, there is no legally sustainable reason for not complying with the orders of this Tribunal in favour of the applicant. As Annexure A4 order dated 11.1.2013 is legally unsustainable, it is liable to be set aside.

7. Annexure A4 is quashed. The respondents are directed to consider the applicant for absorption in Group-D post in pursuance to the directions in Annexure A1 order passed by this Tribunal within a period of 60 days from the date of receipt of a copy of this order.

8. Original Application is allowed as above. No order as to costs.



**(K. GEORGE JOSEPH)**  
**ADMINISTRATIVE MEMBER**

**"SA"**