

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

Original Application No.61/2006

This the 13th day of February 2008

HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

Uma Prasad Shukla aged about 63 years (Date of Birth 01.08.1942) Gramin Dak Sewak Mail Carrier (E.D.R. Unchgaon (A/O Sukul Bazar) S/o Sri Ambika Prasad Shukla R/o Village Shuklan Purva, P.O. Shukul Bazar District Sultanpur.

...Applicants.

By Advocate: Shri R.S. Gupta.

Versus.

1. Union of India through the Secretary, Department of Post, Dak Bhawan, New Delhi.
2. Chief Post Master General, U.P. Circle, Lucknow.
3. Senior Superintendent of Post Offices, Faizabad.
4. S.D.I. Musafir Khana (Sultanpur).

... Respondents.

By Advocate: Shri S.K. Singh.

ORDER

BY MR. M. KANTHAIAH, MEMBER JUDICIAL.

The applicant has filed this OA challenging the order dated 13.10.2005 covered under Annexure-1 and to treat the

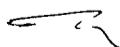


applicant in service of the respondents department continuously till 31.07.2007 with full pay and allowances and all other consequential benefits.

2. The respondents have filed Counter Affidavit, denying the claim of the applicant stating that the applicant has shown his date of birth as 13.02.1941, when he furnished descriptive particulars in 1977 by putting his signature, thumb and finger impressions there on and as such, he was permitted to retire on 12.02.2006 (AN), after attaining superannuation covered under Annexure-A-1 and thus justified their action.

3. The applicant has filed Rejoinder Affidavit, reiterating his pleas in the OA and denying the stand taken by the respondents in their Counter Affidavit. He further stated that at the time of his appointment, his descriptive particulars were prepared by I.P.Os. (W) Sultanpur on the basis of certificate of educational qualification submitted by him with the application for his appointment alongwith school certificate in which, it was correctly recorded as 01.08.1942 and thus, he sought production of all those documents from the office of respondents.

4. The respondents have filed Supplementary Counter Affidavit, to the Rejoinder stating that except the descriptive particulars and seniority list covered under Annexure-C-1 and Annexure-CA-2, no other documents such as T.C., Security Bond and other documents are available in the records. They



further stated that on 13.07.2005, the applicant submitted an application stating that he would be retiring in the year 2006, since he is going to complete 65 years age and the same is filed as Annexure-SC-A. Sri Kailash, Superintendent of Post Offices, Sultanpur filed his Affidavit stating that on verification of records, it came to light that neither the applicant submitted any such application nor any transfer certificate and no such Security Bond is also available in the records thus, expressed their inability for production of such documents as ordered by the tribunal.

5. Thereafter, the applicant again filed Supplementary Rejoinder Affidavit, for production of documents and also records on which he firstly appointed in service in the year 1972. He further alleged that the present superintendent of Post Office, Sultanpur, who filed his Supplementary Affidavit, concealing real facts.

6. Heard both sides.

7. The point for consideration is whether the applicant is entitled for the relief as prayed for.

8. The admitted facts of the case are that the applicant was provisionally appointed as EDR now designated as GDS, Unchgaon Post Office, Sultanpur vide Memo dated 19.02.1972 w.e.f. 25.02.1972. Annexure-2 is the copy of said order. The said appointment was purely temporary and liable to be terminated at any time without giving any notice. While the



applicant was working in the same Post Office, he received instructions vide Annexure-1 dated 13.10.2005 stating that he is going to retire on attaining superannuation on 12.02.2006. Thereafter, the applicant has filed this O.A. challenging the said impugned order stating that he born on 01.08.1942 and filed O.A. on 01.02.2006 and thus disputed the date of superannuation as mentioned in Annexure-1.

9. It is the contention of the applicant that he made representation to the Respondents No.3 and 4 vide Annexure-4 dated 22.10.2005 and Annexure-6 dated 14.6.1974 respectively stating therein that the date of birth recorded in his record is incorrect and correct date of birth of the applicant is as 01.08.1942 and subsequently he again made a representation covered under Annexure-6 dated 28.12.2005. But the respondents have denied submission of such representations by the applicant.

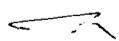
10. It is the case of the applicant that he born on 01.08.1942 and his date of birth was also mentioned in the school register of Kurmi Chatriya Higher Secondary School, Babuganj Daliganj, Lucknow now Ramadhin Singh Inter College Babuganj Daliganj, Lucknow, when he joined in class VI in the year 1950. It is also his case that at the time of his appointment on the post of EDR in the year 1972 , he submitted his application with date of birth enclosing his School Certificate wherein, it was recorded as 01.08.1942 but the respondents by suppressing such



documents of his application, School Certificate and also security Bond they have recorded his date of birth as 13.02.1941, which is incorrect and thus challenged the impugned intimation letter under which the respondent authorities informed his date of retirement on 12.02.2006 on attaining the age of superannuation at the age of 65 years.

11. The respondents have filed their objections stating that no such application and also school certificate was submitted by the applicant in the year 1972 and the Security Bond is also not available in the records. They further stated that the applicant himself submitted his descriptive particulars in the year 1977 at that time he had shown his date of birth as 13.02.1941 and the said application also bears his signatures, thumb impressions and impression of remaining four fingers of the applicant. They also further contended that in the seniority list prepared on 01.07.2004, the date of birth of the applicant was also shows as 13.02.1941. They also further stated that in the year of 2005, the applicant himself submitted an application stating that he is going to retire in 2006 on attaining the age of 65 years and he is not able to discharge his duties properly because of old age. Thus they stated that the date of birth of the applicant was recorded in the records as 13.02.1941 but not as 01.08.1942 and thus opposed the claim of the applicant.

12. The entire case of the applicant and also the arguments advanced by his counsel shows that at the time of joining in



the service in the year 1972, the applicant submitted his application alongwith School Certificate in which his date of birth was recorded as 01.08.1942. It is also the case of both the parties that no service record will be maintained for the cadre of EDR of the applicant. The present Superintendent of Post Officer filed his Affidavit, stating that no such records are available in the office and stating that no such documents were filed at that time.

13. But, it is the case of the applicant that in the year 1974 he made a representation to the Respondent No.3 and relied on Annexure-A-5 dated 14.06.1974. The recital of said representation shows that his date of birth was recorded as 13.02.1941 but as per his School Certificate his date of birth was shown as 01.08.1942 and thus he sought correction of his date of birth from 13.02.1941 to 01.08.1942. The said representation does not mention that he enclosed any of the copy of such School records. From this recitals of the representations of the applicant he himself admitted that his date of birth was recorded in the record as 13.02.1941 and he was aware of such recording of date of birth as 13.02.1941. Such representation also further falsify the contention of the applicant that at the time of joining of service in the year 1972, he furnished his date of birth as 01.08.1972 and also submitting of any school certificate alongwith his application. When the document of the applicant itself shows such entries of

his date of birth as 13.02.1941 in the beginning of his service, he blaming the respondent authorities and also asking them to produce records is unjustified and also diverting the attention of the Tribunal to attribute motives against respondent officials. Thus there is no truth in the version of the applicant that at the time of his appointment in the year 1972, he made any application by giving date of birth as 01.08.1942 and also submitting of any school certificate issued by Kurmi Chatriya Higher Secondary School, Babuganj Daliganj, Lucknow. Further non enclosing of any copy of school certificate alongwith Annexure-5 to the Respondent No.3 also further falsify such issuance of certificate by such school with his date of birth as 01.08.1942.

14. It is the case of the respondents that in the year 1977, the applicant himself submitted descriptive particulars in which, his date of birth was shown as 13.02.1941 and he also put his signatures, thumb impression and also impressions of the remaining four fingers. In the said application, he mentioned his educational qualification as 9th Class pass. It did not mention furnishing of any school certificate alongwith such particulars. Without submitting such descriptive particulars by the applicant, how the respondent authorities will record the date of birth of the applicant as 13.02.1941, which he himself admitted that the same was recorded in his service record, which reveals from his own document covered under Annexure-A-5. Further,



the seniority list date 01.07.2004 also finds that name of the applicant at Serial No.94, showing his date of birth as 13.02.1941. But he did not take any steps for correction of such date of birth. Further it is also not the case of the applicant that in earlier seniority lists, it was mentioned as 01.08.1942 and without filing of any such documents, blaming the respondent authorities that they have wrongly recorded his date of birth is baseless and also irresponsible.

15. The respondents have not admitted the receipt of any of these representations covered under Annexure-4, and 5 and Annexure-6 and the applicant also not filed any documents to show acknowledgment of the concerned respondents. Even if the version of the applicant is believed to be true that in the year 1974, he made representation to the Respondent No.3 for correction of his date of birth from 13.02.1941 to 01.08.1942, what steps he made thereafter and keeping quite without any correspondence or enquiries after such representations also goes to prove the version of the respondents that there was no such representations and if there was any such occasion, he would have definitely enquired the concerned authority and also made further correspondence to know the result of his representations. All these circumstances clearly show that making of such representations itself is a false and concocted story.

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16. Further, by preparing of such representation covered under Annexure-5, the applicant himself admitted that his date of birth was recorded as 13.02.1941 in the beginning and such a person questioning the orders covered under Annexure-A-1 disputing his date of birth is not at all tenable. The self conduct of the applicant itself shows that his claim is false and baseless.

17. Added to it, not only the descriptive particulars application submitted by the applicant in the year 1977 covered under Annexure-CR-1 coupled with his own application covered under Annexure-SCA-1 dated 30.07.2005 in which he mentioned that in the year 2006 he is going to retire on attaining the age of 65 itself shows that the applicant has been aware of his date of birth was recorded as 13.02.1941 from the beginning and further he never made any representations to the respondents authorities for correction of his date of birth and never supplied the copy of any of school certificate as contended by him. All these circumstances clearly falsifying the claim of the applicant in disputing his date of retirement as shown in Annexure-1 and as such the OA is liable for dismissal.

18. It is also the contention of the applicant that he studied from 6th Class to 9th Kurmi Chatriya Higher Secondary School, Babuganj Daliganj, Lucknow now Ramadhin Singh Inter College Babuganj Daliganj, Lucknow and relied on Annexure-A-3. This is the certificate filled as Scholar's Register & Transfer Certificate from Ramadhin Singh Inter College, Babuganj Daliganj,

Lucknow in the name of Uma Prasad Shukla S/o Gursaran Das with date of birth as 01.08.1942. The columns of this document in respect of Admission File No., Withdrawal No., and Transfer Certificate File No. are left blank except Scholar's Register as 3055. The recital of the document also shows that that student joined in 6th Class on 02.08.1950 and studied up to 10th Class by joining on 08.07.1954. This is the attested copy of District of School with date 28.01.2006. It also shows the signature of Collage Principal with dated 14.05.2002. From the perusal of this document, it was prepared by the school authority on 13.05.2002 signed by the Principal on 14.05.2002 and attested by District of School on 28.01.2006, which clearly goes to show that document came into existence from Kurmi Chatriya Higher Secondary School, Babuganj Daliganj, Lucknow now Ramadhin Singh Inter College Babuganj Daliganj, Lucknow. It also shows that the applicant studied Xth Class in the year 1954 and he opted the post of EDR with such educational qualifications, and joined the post of EDR in the year 1972. Father name of the applicant is not at all tallying in this certificate. A person with such an educational qualification of Xth Class in the year 1954, who says that in the year 1974 he made representation to the respondent authorities for correction of his date of birth from 13.02.1941 to 01.08.1942, will not keep quite without perusing of his claim for correction of his date of birth. Such an educated person keeping quite for all

these years till the respondent authorities issued intimation letter covered under Annexure-1 itself shows that his stand or making such representation itself is false. Further the discussion made in earlier paras itself shows that the date of birth of the applicant was recorded as 13.02.1941 and he is aware of it from the beginning and such a person filing OA at fagend of his service, blaming the respondent authorities is nothing but misguiding and misleading the authorities and such a person is not entitled for any relief as prayed for and this OA is liable for dismissal.

In the result, OA is dismissed. No costs.


(M. KANTHAIAH)
MEMBER (J)

13.02.2008

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