

Central Administrative Tribunal Lucknow Bench Lucknow.

O.A. No. 382/2006

This, the 25th day of April, 2008.

Hon'ble Shri M. Kanthaiah, Member (J)

Jag Pal Singh aged about 62 years son of late Sri Dularey Singh, R/o Village Raipur Gadi (Aagain) District- Unnao.

Applicant.

By Advocate: Shri K. Bajpai

Versus

1. Union of India through the Secretary, Department of Post and Telegraph, Sanchar Bhawan, New Delhi.
2. Senior Supdt. Of Post Offices, Mofussil Division, Kanpur.
3. Inspector , Posts and Telegraph Department Unnao.

Respondents.

By Advocate: Ms. Poonam Sinha

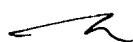
ORDER

By Hon'ble Shri M. Kanthaiah, Member (J)

The applicant has filed the Original Application under Section 19 of the Administrative Tribunal Act, 1985 with prayer to quash the impugned order dated 31.7.2006 (Annexure No.1), under which he was directed to retire w.e.f. 31st July ,2006 and also permit him to continue in service with consequential benefits.

2. The respondents have filed counter affidavit, denying the claim of the applicant , stating that in spite of notice, the applicant has not furnished his date of birth certificate and as such after enquiring into the matter, they have issued such order\$ covered under Annexure A-1 , asking him to retire w.e.f. 31st July, 2006.

3. The applicant has filed rejoinder, denying the stand taken by the respondents and also reiterated his pleas in the O.A., stating that he submitted certificates of educational institutions in respect of his date of birth as 9th January, 1945 at the time of joining in service and thus disputed the impugned order covered under Annexure No.1.



4. Heard both sides.

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

6. The admitted facts of the case are that the applicant was appointed on the post of Branch Post Master Raipur Gadi (Ajgain) District Unnao on 27.12.1961 by the respondent No. 3. The age of superannuation for the post of Branch Post Master i.e. Extra Departmental Staff is 65 years. It is also not in dispute that no service record of the applicant was maintained by the respondents. In the year 1989, when the respondents asked the applicant to produce proof of date of birth, the applicant did not submit any such certificate. Again on 3.4.2006 covered under Annexure No.2, the respondents asked the applicant to submit the birth certificate, counter signed by Inspector of School, failing which he will be retired with immediate effect. After receiving the same, the applicant submitted his reply covered under Annexure No. 3 dated 17.4.2006, stating that non-availability of any record in Divisional Office is not his fault and further no such records issued by any educational institutions are available with him. He also stated that his date of birth is available in the gradation list issued by the Department. The applicant also relied on Annual Inspection Report of the Department covered under Annexure No. 4 to Annexure No. 8 and also Ration Card Annexure No. 9 dated 12.8.2006, stating that his date of birth as 9.1.1945. Annexure No. 10 dated 11.10.2004 is the letter of the applicant in which he mentioned that no documents are available now and whatever was there, he submitted in earlier occasion which is in respect of Passport.

7. It is the case of the applicant that he joined in the service on 27.12.1961 and at that time he submitted all school certificates in which date of birth was shown as 9th January, 1945. Before passing the impugned order covered under Annexure No.1, when the respondent authorities asked him to furnish his date of birth certificate, counter signed by Inspector of School covered under Annexure No.2 dated 3.4.2006, he replied to the

authorities covered under Annexure No. 3 date 17.4.2006, stating that no such records are available with him issued by any educational institutes but he relied on the passport and gradation list prepared by the Department, and as such he challenged the impugned order covered under Annexure No.1 in which the respondent authorities treated his date of birth as 15th July, 1938 and thus retired him w.e.f. 31st July, 2006.

8. It is the case of the respondents that no service register of the applicant is maintained in the department and in the year 1989, when the department asked the applicant to produce a proof of date of birth, he did not submit any reply and again in the year 2006, when they asked the applicant for filing date of birth certificate, counter signed by the Inspector of School, he did not file any such certificate and in the circumstances they got such a certificate from the school and basing on such certificate, they assessed date of birth of the applicant as July, 1938 and thus issued orders covered under Annexure No. 1 asking him to retire w.e.f. 31st July, 2006.

9. The case of the applicant is that he submitted all his certificates more particularly educational certificate at the time of joining in service in 1961. But he has not filed any of the copies of such certificates or details of any joining report, giving his date of birth at that time. It is also not in dispute that in the year 1989, when the respondent authorities asked him to produce the proof of date of birth, the applicant did not give any reply and also not submitted any such certificate. Again in the year 2006, the respondent authorities informed the applicant that no records are available in respect of date of birth of the applicant and asked him to submit his date of birth certificate counter signed by the Inspector of School, failing which he will be retired with immediate effect. In the said letter, they have also informed the applicant that the date of birth given by the applicant basing on passport is not at all valid one and thus asked him to submit date of birth certificate counter signed by the Inspector of School. After receiving the said letter, the applicant submitted his reply dated 17.4.2006 (Annexure No. 3) stating that no such

records issued by educational institutions are available with him and if no records are available in the office, it is not his fault and relied on the gradation list prepared by the Department. But he has also not enclosed any gradation list along with the Annexure No. 3 and also in this O.A. showing of any date of birth and as such mere mentioning of gradation list in his reply, is not at all justified.

10. Further, the applicant has not given any details in respect of his date of birth and also particulars of school certificate in his reply covered under Annexure No. 3. If there is any truth in the version of the applicant that he submitted his date of birth as 9th January, 1945 and also submitted his school certificate at the time of joining in the service in the year 1961, there is no problem for production of such copies of certificate or at least giving details of school where he studied and particulars of such certificates. Non furnishing of any of such details in his reply (Annexure No. 3), itself throws doubt in his contention that he submitted all those particulars at the time of joining in service in the year 1961.

11. If the claim of the applicant that he furnished his date of birth as 9th January, 1945 at the time of joining in service is taken to be correct, admittedly he joined in the service in 1961 and it shows that he was only 16 years old which is not at all valid and permissible to join in service. This circumstances also goes to show that giving such date of birth as 9th January, 1945 and also submitting his date of birth certificate at the time of his joining in the service is not at all correct.

12. It is the main contention of the applicant that no opportunity was given to him before issuing impugned order covered under Annexure No.1 and also further stated that when the department made enquiries with the school authorities, no opportunity was given to him in respect of those documents and as such he questioned the validity of impugned order covered under Annexure No.1. Admittedly, before issuing Annexure No.1, the respondent authorities have issued notice covered under Annexure 2 dated 3.4.2006 in

which, they have clearly mentioned that no records are available in respect of date of birth of the applicant in the Department and as such, they asked him to submit date of birth certificate counter signed by Inspector of School failing which he will be retired with immediate effect. In the said notice, they have also mentioned that the date of birth information given basing on passport is not at all valid. Issuance of such notice Annexure No. 2 dated 3.4.2006 clearly shows that the respondent department have given ample opportunity to the applicant to produce his date of birth certificate issued by the educational institution counter signed by the Inspector of School and also further informed that the information given on the passport is not at all valid. In spite of giving such opportunity, the respondents who gave his reply covered under Annexure No. 3 dated 17.4.2006 did not furnish any of the material/ particulars in respect of his correct date of birth, the school where he studied and also particulars of date of birth certificate issued by the educational institutions. Without giving any of those documents, simply stating that it is not his fault for not recording the date of birth in the official record is not at all justified to substantiate his claim to proof the correct date of birth. When the respondent authorities have given such a notice/ opportunity to the applicant, without giving any valid reply, it is not open to the applicant to question the subsequent orders passed by the authorities covered under Annexure No.1.

13. The applicant also found fault with the respondent authorities for collecting his date of birth from school authorities stating that he never studies in his village primary school Rajpur Gadi and Assistant Basic Shiksha Adhikari, Nawabganj, Unnao and further stated that he has taken primary education in Baba Suyra Nand Primary School Vollage Sonik, District- Unnao but he never informed such education to the respondent authorities either in the year 1989 or in his reply dated 17.4.2006 covered under Annexure No. 3 and further not filed any of such school certificate in this,

~~O.A. to believe his version and also to dispute the school certificate issued~~

Annexure No. 3 and further not filed any of such school certificate in this O.A. to believe his version and also to dispute the school certificate issued by the Primary School Raipur Gari covered under Annexure No. CA-5. When the respondent authorities addressed letter to the Head Master, Primary School Raipur Gadi and also to Assistant Basic Shiksha Adhikari, Nawabganj, Unnao for supplying ~~correct~~ date of birth of the applicant, the Assistant Basic Shiksha Adhikari, Nawabganj, Unnao had sent a letter (Annexure CA-5) to the respondent authorities that the applicant was admitted in their school on 26.7.1943 and at that time his age must have been 5 years. Basing on such certificate, the respondent authorities have assessed the date of birth of the applicant as 15.7.1938.

14. When the applicant did not furnish any of the material record to proof his date of birth, the respondent authorities have obtained the said information from the concerned school and basing on which, they have assessed the date of birth of the applicant as 15.7.1938 and in such circumstances, finding fault with the respondent authorities is not at all maintainable.

15. The applicant has relied on Annexure ^{4 to} 8 ^{annual} annexing inspection report of the department, stating that the date of birth was shown there as 9.1.1945. Admittedly, all these reports have no concerned with the date of birth of the applicant and further the purpose of inspection report in respect of functioning of the post office and as such the said documents are not at all helpful to decide the date of birth of the applicant. Similarly, Annexure-9, Ration Card which the applicant obtained recently in the year 2006, is also not helpful to decide the dispute. Thus all these documents Annexure 4 to 9 are not at all helpful for deciding the date of birth of the applicant.

16. From the above discussion, it is clear that the applicant failed to prove that he submitted any of the documents in respect of his date of birth either at the time of joining into the service or subsequently when the notices issued by the respondent department and further he has not placed any valid

documents or school certificates showing the date of birth and such a person finding fault with the respondents for collecting his date of birth certificate from school of his native place is neither maintainable nor justified.

17. Thus there are no meritⁱⁿ the claim of the applicant in challenging the impugned order covered under Annexure No.1 and as such the ^{same} claim is liable to be dismissed.

18. In the result , O.A. is dismissed but in the circumstances no costs awarded.

His/-


(M. KANTHAIAH)
MEMBER (J)

25-01-2008