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CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

O.A.No. 206 of 1990 (L)

Ayodhia Prasad ShuklaApplicant

Versus

Union of India.....O.Party

Hon'ble Mr. Justice U.C.Srivastava, V.C.

(By Hon'ble Mr. Justice U.C.Srivastava, V.C.)

As a short matter is involved in this case.

After hearing the counsel for the parties with their consent the case is being disposed of finally. Admit. The applicant was appointed as an apprentice when he passed the VI standard and after completion of 5 years training he was got appointed first in the year 1949. At that time he allegedly submitted his School Leaving Certificate indicating his date of birth as 22.8.1936. The School Leaving Certificate of the Agarsen College, Lucknow has been placed on the record which was issued to him when he left the institution after studying VII class in which he failed. The said certificate records his date of birth as 22.8.1936. It appears that in the service record the applicant's date of birth was mentioned as 24.8.1933. The applicant moved an application on 31.12.1983 for determination or alteration of the date of birth relying on the School Leaving Certificate. According to the applicant the dispute was not decided even though the reminders for the same was sent. The applicant's prayer was rejected by the Chief Engineer Workshop Rail Engine, Karkhana, N.R.Lucknow on 15.1.1990. The applicant made a request to the O.P.No.3 that his original transfer certificate may be returned but the same was not done. The grievance of the applicant is that his date of birth was wrongly recorded in the service record and when he made his application for the correction, then the matter remained pending and without making any enquiry whatsoever, his application was rejected

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probably relying on the seniority list in which the date of birth is shown to be 31.12.1933 from which he could get this knowledge for the first time. It is after he started moving applications for correction of the same. The application was rejected on the ground that no change in the date of birth could be made as the application for the same could have been moved within three years and his application was barred by time. The respondents have pointed out that if the applicant's age as given by him subsequently is accepted his age was 13 years 4 months when he was taken as apprentice which was not possible. According to the applicant the minimum age for apprentice could have been 13 years as 5 years training was given to the applicant. The applicant entered the service at the age of 18 years and that is the minimum age for service and not apprenticeship. There is no such bar that in no case an enquiry in respect of the date of birth can be made after the expiry of 3 years of a person entering in service such a rule is in effect is only directory in nature and not mandatory, of course can be enforced if it is said that the person concerned has been apprised of the date of birth and even then within three years he does not make any application for the same. According to the applicant he never learnt of his date of birth as recorded as there was no occasion for the same his date of birth is *prima facie* established from the school leaving certificate filed by him. The application filed by the applicant was rejected on the ground which was not warranted and was not justified consequently this application deserves to be allowed to the extent that respondents are directed to make enquiry into the date of birth of the applicant associating him with a view that this enquiry shall be completed within 4 months. The applicant shall appear before the Chief Workshop

Manager, Rail Karkhana on 20.2.1992 on which date he shall fix the first date of appearance before the enquiry officer. In case in the enquiry it is found that the date given by the applicant is correct, the record shall be corrected and the applicant shall be given its benefit.

No order as to costs.

Dated: 20th Dec., 1991


V.C.

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