

Central Administrative Tribunal Lucknow Bench Lucknow.

Original Application No: 242/2009

This, the 31st day of August, 2009

Hon'ble Ms. Sadhna Srivastava, Member (J)

Surya Narayan Singh, aged about 768 years, son of Late Shri Bhagwati Deen, resident of Village and Post Office Lohjhara, District Ambedkar Gagar.

Applicant.

By Advocate Sri Ram Pratap Singh Chauhan.

Versus

1. Union of India, through the Secretary, Ministry of Communication (Department of Posts), New Delhi.
2. Superintendent of Post Offices, Faizabad Division, Faizabad.
3. Sub Divisional Inspector of Post Offices, Akbarpur.

Respondents.

By Advocate Sri S. P. Singh.

Order (Oral)

By Hon'ble Ms. Sadhna Srivastava Member (J)

The subject matter is to correct the date of birth in the service record.

2. The brief facts of the case are that the applicant was appointed as Extra Departmental Mail Peon, at Lohjhara Post Office, District Ambedkar Nagar on 30.5.1979. According to the applicant, his date of birth is 26.11.1941 and whereas the respondent has retired the applicant on 25.11.2005 treating his date of birth as 26.11.1940.

3. The respondents have filed preliminary objection stating therein that the O.A is barred by time. It is further stated that at the time of appointment, the applicant disclosed his date of birth 26.11.1940. He had completed 65 years of service on 25.11.2005. Therefore, he retired w.e.f. the aforesaid date.

4. Heard the counsel for the parties.

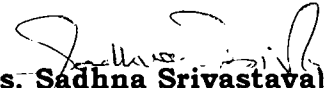
5. Admittedly, the applicant did not challenge his date of birth during his service time. The applicant filed his representation on 23.5.2006 against the action of the respondents in retiring him on 25.11.2005 as contained in Annexure A-2 followed by repeated reminders. The instant O.A. has been filed in 2009 seeking relief to treat him in service according to his correct date of birth as 26.11.1941 and pay him salary for the period. A reading of Section 20 and 21 of the AT Act, particularly Section 21 would make it clear as to how the period of limitation is to be counted. If an application has been given to the competent authority and no order has been passed thereupon for 6 months, the application to the Tribunal should be filed within one year of the expiry of the aforesaid period of 6 months. Therefore, it is not the law that if a representation has been filed before the authorities and that is kept pending at that end, the limitation would not start running during such pendency. Therefore, limitation to file this application had expired some time in 2007. Addresses

6. Limitation once it starts running does not get extended just by filing of another representation or by awaiting reply to subsequent representation. If this be accepted then the period of limitation could be endless, giving a go by to the provision of Section 21 of AT Act. In the instant case, the applicant retired on 25.11.2005, during service period he never challenged his date of birth. For the first time he agitated his grievance through representation dated 23.5.2006 that too after retirement. The Apex Court in the case of State of Orissa and Others Vs. Ramanath Patnaik 1997 SCC (L&S) 1141 has held that prayer for correction in date of birth recorded in service record after retirement is not permissible. Therefore, any amount of evidence produced subsequently would be of no avail.

7. The applicant filed his representation on 23.5.2006 which was followed by the several representations. The applicant was retired on



25.11.2005 and he filed the present Original Application on 2009. Therefore, keeping in view the judgment of Apex Court as well as the pleadings on record, I am of the considered view, the O.A. is barred by time and therefore dismissed on the ground of limitation. On merits also, this application is liable to be dismissed. No costs.


(Ms. **Sadhna Srivastava**)
Member (J)

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