

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

Original Application No. 71 of 1992.

this the day of 14 October, 1997.

HON'BLE MR. D.C. VERMA, MEMBER JUDICIAL

Lalita Prasad Sonkar aged about 54 years, son of, Sri. Buchcha Lal Sonkar, resident of 512/183, Nishatganj 6th Lane, Lucknow, posted as Upper, Division Assistant in the office of Chief Commissioner of Income-tax, U.P. Lucknow.

... Applicant.

By Advocate:- Applicant Inperson.

Versus.

Union of India, Ministry of Finance and, Banking, New Delhi, through its Secretary.

2. Assistant Commissioner, Income Tax, Head quarters (Administration), Lucknow.

3. Chief Commissioner of Income Tax, U.P., Lucknow.

... Respondents.

By Advocate:- Sri. A.K. Chaturvadi.

ORDER

BY D.C. VERMA, MEMBER (J).

By this O.A. the applicant has claimed correction of his date of birth from 19.1.1934 to 25.2.1938.

2. The applicant was retired as Upper division Clerk on 31.1.1992 on the basis of date of birth recorded in the office record.

3. According to the applicant initially he was admitted in Primary School, Daraganj, Allahabad where his date of birth was recorded as 25.2.38. Subsequently the applicant was admitted in Rashtriya Gandhi Vidyalaya, Allahabad, without a Transfer Certificate. In this institution the date of birth of the applicant was recorded by Headmaster himself as 19.1.1934. This date of birth i.e. 19.1.1934 continued to be recorded during the whole service period. Applicant claims that in 1991 on getting copy of transfer certificate from Primary School, Daraganj, Allahabad he learnt that his date of birth was 25.2.38. The certificate has been filed by the applicant during the course of arguments. This certificate was issued on 22.8.1991. As per this certificate the applicant had left Primary School, Daraganj, Allahabad on 23.12.1943. After getting this School Leaving Certificate of Primary School, Daraganj, the applicant made a representation on 18.11.1991 (Copy Annexure-1 to the O.A.), for correction of date of birth. The same was however rejected by impugned order dated 6.1.1992, hence this O.A..

4. Respondents have contested the case and has submitted that as per the service record the date of birth of the applicant was 19.1.1934. It has been further stated that even in the attestation form (Copy Annexure-C-3 to the O.A.) prepared at the time of entry in service the date of birth was recorded as 19.1.1934. This was certified to be correct by the applicant who had put his signature on 6.10.1959 and was also attested by two responsible persons known to the applicant. In the service role (Copy Annexure-c-5) again date of birth was recorded as 19.1.1934, this was again attested by the applicant on 21.1.1963. Besides putting his signature the thumb ^{of the applicant} impression was also taken on this document.

5. According to the applicant who had argued the case in person, he doesn't deny the date of birth recorded in the documents filed by the respondents because they were recorded on the basis of date of birth entered in the Rashtriya Gandhi Vidyalaya, Allahabad (Copy Annexure-C-2). The applicant's contention is that he learnt his correct date of birth only in year 1991 and therefore he could not make any application for correction of date of birth prior to that date. Applicant's further submission is that after getting the school leaving certificate he had sent the representation for correction of date of birth but the same was rejected by the respondents. The applicant has also submitted



that the date of birth was wrongly recorded in Rashtriya Gandhi Vidyalaya, Allahabad by the Head Master of the said institution.

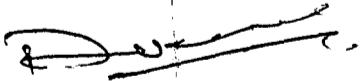
6. After hearing the applicant and perusing the documents I find no merits in the case. It is admitted in para-4(iii) of the O.A. that the parents of the applicant got him admitted in Rashtriya Gandhi Vidyalaya, Allahabad. The contents of Annexure-1 to the O.A., i.e. the representation dated 18.11.1991 also shows that applicant's father and uncle, got the applicant admitted in the school. This shows that even in the year 1943-44 when the applicant was admitted in the Rashtriya Gandhi Vidyalaya, Allahabad, the applicant's father and uncle knew about the date of birth recorded as 19.1.1934. That date of birth remained unchanged till the end of applicant's service carrier. At the fag end of his carrier when the applicant was due to retire in January, 1992, the school leaving certificate of Primary School, Daraganj some how appeared in August, 1991. In what circumstances this certificate appeared, five decades after leaving the institution in 1943, is not on record. A bald explanation has been given that another colleague of the applicant was to retire after five years so the applicant made hectic search ~~explaining~~ ^{for} about his correct date of birth. Such as explanation

can not be accepted.

7. Hon'ble Supreme Court in the case of Executive Engineer, BHADRAK (R&B) Division, Orissa and others Vs. Rangodhar Mallik reported in 1993 SCC (L&S) page-276 has held that date of birth recorded in service book and singed by the employee has to be relied even if by that employee would be 40 years of age at the time of entry in service, The apex Court has further held that a presentation made one year before superannuation was rightly rejected by the department. Similarly in the case of Union of India Vs. Ram Suia Sharma reported in 1996 SCC(L&S) page-605 the apex court rejected the claim of the applicant for correction of date of birth on the ground that the same was claimed by the applicant 25 years after joining service.

8. In view of the aforesaid decisions of the apex court and facts and circumstances of the present case discussed above, the C.A. lacks merits.

9. The O.A. is dismissed. No costs.


MEMBER JUDICIAL

Dated:- 14 Oct 1997
Lucknow.
Amit..