

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

CIRCUIT BENCH LUCKNOW

of
M. NO. 330 1989(L).

DATE OF DECISION 23.3.90.

S. P. Khurana

PETITIONER

Mr. Ved Barkal

Advocate for the
Petitioner (s)

VERSUS

Union of India and others RESPONDENT

Mr. D. Chandra

Advocate for the
Respondent (s)

CORAM :

The Hon'ble Mr. D. V. Agarwal, JY

The Hon'ble Mr. K. Obayya, AM

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether to be circulated to other Benches ?

D. V. Agarwal

All
Reserved

Central Administrative Tribunal, Lucknow Bench
Lucknow.

Registration O.A.No. 330 of 1989 (L)

S.P.Khurana

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Applicant.

Vs.

Union of India and others

Respondents.

Hon. D.K.Agrawal, JM

Hon. K.Obayya, AM

This Application u/s.19 of the Administrative Tribunals Act XIII of 1985 has been made by the abovenamed Applicant aggrieved with the alteration in his date of birth made in the service book on 9.9.1960.

2. The facts are that the Applicant was appointed as CIV TCM in the Station Workshop EME, Lucknow on 1.3.1950 and his date of birth was recorded as 1.1.1931 at the time of entering into service. The contention of the Applicant is that his High School certificate was not available at the time of joining service. Therefore, he had submitted extract of birth register wherein his date of birth was recorded as 1.1.1931, which was accepted by the employer. Later on Matriculation Certificate dated 1.11.1947 issued by Punjab University, Lahore was supplied under the Ministry of Education letter dated 24th Aug. 1960 wherein his date of birth was recorded as April 1, 1930. The Applicant, therefore, made a representation to the Secretary, Govt. of India, Ministry of Education New Delhi on 9.9.1960 under intimation to the Station Workshop, EME Lucknow that the Applicant's date of birth shown as April 1, 1930 in the Matriculation Certificate of Punjab University Lahore was wrong and that the correct date of birth was 1st January 1931. The said letter

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was never replied to. There is no document available on record to indicate that the Applicant pursued the matter any further. On the other hand, the employer, on the basis of the above information, made a change in the date of birth of the Applicant in his service book, i.e. the date of birth was altered from 1.1.1931 to 1.4.1930. The Applicant was also made to sign the altered date of birth in the service book. It is clearly admitted by the Applicant in para 4.19 that he was made to sign the altered date of birth in the service book. However, his contention is that he did so under protest. His letter of protest is also not available on record. The Applicant failed to file any document to show that any protest was made by him at the time he was made to sign the altered date of birth or at any subsequent stage.

3. The present Application was filed on 1.2.1989 allegedly on the ground that the alteration in date of birth was ratified by the Ministry of Defence in the year 1988. The facts in this regard are that an audit objection was raised by the Auditor while auditing the Station Workshop that the alteration in date of birth should have been attested by an officer after approval of the Ministry and in order to remove the objection, the department made a correspondence and obtained the ratification of Ministry of Defence vide letter dated 1st November 1988. (annexure 8 to the Application). We are of opinion that it is difficult to accept the proposition that the date of birth was altered on the basis of letter dated 1.11.1988. The matter of fact is that the date of birth was altered on 9.9.1960. Due to an internal audit objection, it was ratified by the Ministry of Defence on 1.11.1988. Consequently, the Applicant's

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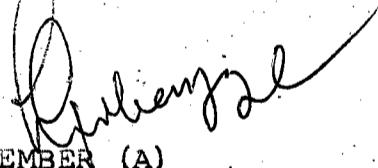
claim, in our opinion, is barred by delay and laches.

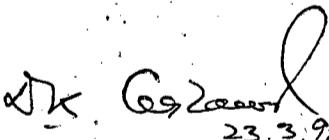
The date of birth having been altered on 9.9.1960, it is not open to the Applicant to agitate the matter in the year 1989 when he was due to retire on 31st March 1990 according to the altered date of birth.

The Application must be deemed to be barred by delay and laches.

4. We may observe that even assuming that the date of birth as recorded at the time of entering into service was 1.1.1931 and the same date was reflected in the birth register, the date of birth as recorded in the Matriculation Certificate will over-ride, i.e., the date of birth as recorded in the Matriculation Certificate will be deemed to be authentic in case of conflict with the entry of date of birth in the birth register. The date of birth as recorded in the Matriculation Certificate will be presumed to be correct unless otherwise proved. In the circumstances, we find no merits in the Application and the same deserves to be dismissed.

5. In view of our foregoing discussion, the Application is dismissed without any order as to costs.


MEMBER (A)


23.3.90
MEMBER (J)

Dated: 23.3.1990
kkb.