

Central Administrative Tribunal Lucknow Bench Lucknow.

Original Application No. 246/2007.

This, the 11th day of November, 2007

Hon'ble Mr. Justice Khem Karan, Vice Chairman

Ram Din Yadav
Aged about 55 years,
Son of Sri Ram Pal Yadav,
R/o Pure Ram Autar Singh,
Post Amaniganj District Faizabad,
Working as Group D Amaniganj,
Faizabad.

Applicant.

By Advocate Shri R.S. Gupta.

Versus

1. Union of India through the Secretary cum Director General Department of Post Dak Bhawan, New Delhi.
2. Chief Postmaster General U.P. Lucknow.
3. Senior Superintendent of Post Offices Lucknow.
4. Senior Postmaster Faizabad.
5. S.D.I.(W) Faizabad.

Respondents.

By Advocate Shri K.K. Shukla for Dr. Neelam Shukla.

Order(Oral)

By Hon'ble Mr. Justice Khem Karan, Vice Chairman.

The applicant prays for quashing the order dated 28.5.2007 and 8.6.2007 (Annexure 1A and 1B respectively) and also to allow him to continue in service with full wages up to 30.9.2001.

2. Admittedly, he was initially appointed on 1.12.1969 as EDS Mail Carriers and Mail delivers (for short EDMP) at Dharouli and according to the respondents at that time his date of birth was recorded as 15.9.1946 by SDI (W) Faizabad, on the basis of

information given by him. He disclosed to the authorities that he had passed 7th Class and his date of birth was 15.9.1946. In due course, he was regularly appointed as Group 'D' employee in the year 1998-99. He represented to the authorities that his actual date of birth was 15.9.1951 and also filed school leaving certificate in proof thereof. It appears some exercise was done with a view to ascertain whether his actual date of birth was 15.9.1951 or 15.9.46 and after obtaining a certificate from Chief Medical Officer, Faizabad, Senior Superintendent of Post Offices, Faizabad Division directed for correcting his date of birth as 15.9.51. But on the basis of decision taken by Chief Postmaster General U.P. Up Mandaliya Dak Nirishak West, issued a show cause notice dated 28.5.2007 asking the applicant as to why he should not be retired on the basis of his earlier date of birth i.e. 15.9.1946. Thereafter he passed the impugned order dated 8.6.2007, saying that he would retire w.e.f. 8.6.2007, on attaining superannuation age of 60. The applicant is challenging show cause notice as well as order dated 8.6.2007. He alleges in Para 4.7 that authorities got his signatures on blank forms, at the time of his appointment in 1969 and without any reliable proof entered 15.9.46 as his date of birth. According to him the Senior Superintendent of Post Offices, Faizabad was fully justified in entering 15.9.1951, as his date of birth in the service book as the same was supported by not only school leaving certificate but also by certificate of Chief Medical Officer and other circumstances. He has also tried to say that as per rules, service book of EDMP is not maintained and so any entry made at the time of the appointment as EDMP, will have no value in the eyes of law.

3. In their reply, the respondents have clearly stated that while entering into service as EDMP in 1969, applicant disclosed his date of birth as 15.9.46 and the same was recorded in the service record. They say that any change in date of birth of an employee is possible from the level of higher authority and so alteration made by Senior Superintendent of Post Offices Faizabad, was without any jurisdiction. Applicant filed rejoinder, reiterating the pleas already taken but not disputing the fact that he entered in service in 1969 and at that time, his date of birth was mentioned as 15.9.1946.

4. I have heard Shri R. S. Gupta, appearing for the applicant and Shri K.K. Shukla holding brief of Dr. Neelam Shukla for the respondents. As per statement of Shri K.K. Shukla, supplementary reply filed by him is not being taken into consideration in disposing of this matter.

5. There is no dispute that as per the existing provisions, (Annexure 7 and 8) subsequent alterations (See Annexure 7 and 8 to the O.A.), in date of birth of a Government servant can be made with the sanction of Ministry or department of the Central Government or the Comptroller and Auditor General in regard to persons service in the Indian Audit and Accounts department etc, on a request to be made within first five years of his entering into government service and on establishing that a genuine bonafide mistake occurred in entering the same. Applicant Ram Din Yadav does not dispute that he entered in service as EDMP in December 1969. Annexure 2 to the reply is the photo copy of the application dated 1.11.1969 given by the applicant himself for appointment as

EDMP Dharouli . According to it, his date of birth was 15.9.46 and he was 7th pass. I put to Shri R.S. Gupta, learned counsel for the applicant as to what he would like to say in the context of this application dated 1.11.1969. Shri Gupta was not in a position to explain, as to how the applicant stated his date of birth as 15.9.1946, if the real date of birth was 15.9.51. Photocopy of the leaf of service record so annexed to application dated 1.11.1969, shows that at the time of his entering into service in the year 1969, his date of birth was noted as 15.9.46. Annexure-3 to the reply is the copy of the proceedings of DPC dated 21.7.99, which considered the candidature of the applicant and of others for promotion. A perusal would reveal that applicant participated in examinations in the past, with his date of birth as 15.9.46 and his education as 7th pass. So his request for treating his date of birth as 15.9.51 was not accepted by the committee. Thus there is overwhelming material to prove that, while entering into service as EDMP, in 1969, the applicant himself stated 15.9.1946 as his date of birth and the same was recorded in office record. That entry continued up to the date, the senior Superintendent of Post Offices, Faizabad altered it to 15.9.51. Arguments of Shri Gupta that applicant being illiterate or semi-literate could not know in 1969, that 15.9.46 was being entered as his date of birth and that as per rules service book of EDMP was not to be maintained, do not appeal to me, in view of what has been ^{mentioned} ~~maintained~~ above. I do not think, School leaving certificate and certificate from C.M.O. ^{will} ~~do not~~ help the applicant.

6. When he himself stated his date of birth as 15.9.46, how can he turn around and say that his date of birth is 15.9.51. It is very

easy to say that date of birth was entered in the service record without disclosing the contents of that record or signatures or thumb impressions were obtained on blank paper. But how the applicant will explain his own application-dated 1.11.69, where he states 15.9.46 as his date of birth. Even if, the service book was not to be maintained, it is a fact that applicant's date of birth was entered in his service record. Alteration in date of birth will not be permissible at later stage of the service. In the circumstances, the Senior Superintendent of Post Offices, was not competent and justified to make any alteration in the date of birth of the applicant. The claim of the applicant appears to be devoid of merits and the O.A. deserves to be dismissed.

7. The O.A. is accordingly dismissed but with no order as to costs. Interim order dated 12.6.2007 is vacated. Continuations if any of the applicant in service on the strength of this interim order, will not entitle him to count that period, for purposes of pension.

(Handwritten signature)
(Khem Karan)
Vice Chairman

v.