

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No.534/2007

This the 20th day of January , 2009

Hon'ble Dr. A. K. Mishra, Member (A)

Sunder Lal Sharma, aged about 60 years, Son of Late Sri Ram Dayal, Resident of Village-Makhanpur, P.O. Gaddhi, Tehsil-Haidergarh, District-Barabanki, posted as Mail Overseer, Haidergarh, District Barabanki.

Applicant.

By Advocate Sri V.P.Singh

Versus

1. Union of India through Principal Secretary, Postal Services, Central Government, Dak Bhawan, New Delhi.
2. Chief Post Master General U.P. Circle at Lucknow.
3. Director of Postal Services (h.Q.) Officer of Chief Post Master General, Lucknow.
(Director, Marketing Development and Vipran and C.P.I.O. office of Chief Post Master General, Lucknow Circle District- Lucknow)
4. Superintendent of Post Offaicers, Barabanki Division, District Barabanki.
5. Sub Divisional Inspector (U.P. Mandaliya Nirikshak) Haidergarh Mandal Haidergarh, District Barabanki.

Respondents

By Advocate: Sri K.K.Shukla for Dr. Neelam Shukla

ORDER

By Hon'ble Dr. A. K. Mishra, Member (A)

The applicant is challenging the order dated 24.1.2007 of respondent No. 4 retiring him from the post of Mail Overseer of Haidergarh Barabanki Branch on the ground that his date of birth was 31.7.1946 and he was to be retired w.e.f. 31.6.06.

2. The main ground on which he is placing reliance to support his contention that his date of birth was 30.7.1947 not 31.7.1946 as mentioned in the impugned order is that his service book entry relating to his date of birth shows it to be 30.7.1946. Annexure 4 which is the photo copy of the relevant page of service book indicates two dates; one 30.7.1946 and other 30.7.1947 and the latter is followed by a statement in

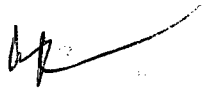


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words. The learned counsel for the applicant further contends that the gradation list prepared on 1.7.196 indicates against entry no. 23 that the date of birth of the applicant was 30.7.1947. Annexure 10 is the gradation list of 1.7.1996. Similarly, another gradation list (Ann. 11) shows at entry No. 12 that his date of birth was 31.7.1947. The same fact has been endorsed in Postal Endowment Insurance form filed at Ann.No.12.

3. The leaned counsel for the respondents submits that there was an error in the entry made in the service book of the applicant which has been subsequently rectified. He further brings to my notice the certificate issued by the educational authority in respect of his successful completion of primary education annexed at Annexure CR-1 which clearly mentions the date of birth of the applicant as 30-7.1946. Further, the School Leaving Certificate at CR-II also reiterates the same position stating that his date of birth was 30.7.1946. The service roll (CR-3) containing descriptive particulars of the applicant at the time of his entry into service also mentions that his date of birth was 30.7.1946. The applicant himself has endorsed the statement by signing on the service roll and also affixing impression of all his fingers on the roll.

4. The counsel for the applicant submits the decision of Learned Supreme Court in the case of U.P. Madhyamik Shiksha Parishan and others Vs. Raj Kumar Agnihotri reported at (2005) 11 Supreme Court Cases 465 and the decision of Hon'ble High Court of Allahabad in case of Munnal Lal Vs Director, Handicap Welfare Department, LKO (LB) reported at 2006 (24) LCD 675 to the effect that date of birth recorded at the time of his entry to govt. service shall be deemed to be correct.



5. The Principle emphasized in the judgment of Learned Supreme Court is that the date of birth which was recorded at the time of entry of a Govt. service shall be deemed to be the correct date of birth. In this case, date of birth which has been entered in the service roll at CR-3 is the entry which was made at the time of his entry into the govt. service and it has been signed by the applicant as well as endorsed by him through affixture of his finger prints. Therefore, reliance has to be placed on this document. The counsel for the respondents concedes that there was a clerical error in the service book entry which was corrected subsequently on detection of the mistake.

6. From the materials brought on record, it is clear that the correct date of birth of the applicant was 30.7.1946 and that he has been allowed to continue in service beyond the age of superannuation by mistake and on detection of the mistake, the impugned order was passed on 24.1.2007. No attempt has been made by the respondents for recovering any excess payment. Under the circumstances, I do not find any infirmity in this order.

7. In the result, the application is dismissed. No order as to costs.


(Dr. A. K. Mishra)
Member (A)

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