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CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,  
LUCKNOW

.....

Original Application No. 131 of 1990

Juber Ahmed

.....

Applicant

Versus

Union of India  
& others

.....

Respondents

Hon'ble Mr. S.N. Prasad, Member(J)

1. The applicant has approached this Tribunal under section 19 of the Administrative Tribunals Act 1985 and with the prayer for directing the respondents to correct his date of birth as 12.4.1934 instead of his date of birth as recorded in his service records as 12.4.1930, and for quashing the order dated 17.4.1989 passed by the DFM, NE Railway, Lucknow as contained in Annexure No. 8 and for further directing the respondents to reinstate the applicant with full back wages and allowances admissible to him.

2. Briefly stated the facts of this case inter alia are that the applicant was initially appointed as Engine Cleaner on 25.4.1952 and the date of birth of the applicant as recorded by the Department in his service records at the time of his entrance into service is 12.4.1934 and the same date of birth has been recorded at page 3 & 4 of the Health Card for Loco Driver supplied to the applicant on 29.4.1982 (vide Annexure No. 1 & 2 respectively which are true copies of the entries made in the aforesaid Health Card for Loco Driver) . It has been stated that prior to the age of his actual superannuation i.e. 30.4.92, the applicant has been invalidly and illegally retired w.e.f. 30.4.1988 according to his wrong date of birth as 12.4.1930 instead of his correct date of birth as 12.4.1934 and thereafter the applicant represented the matter to the authorities concerned and ultimately the applicant was informed by the DFM, NE Railway

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Lucknow Division, Lucknow vide his letter dated 17.4.1999 (Vide Annexure-8) that there was no provision permitting reinstatement on duty and as the applicant has been retired on 30.4.1988 and thereafter the applicant submitted the representation dated 10.12.1989 to the Chairman, Pension Adalat, N.E. Rly, Lucknow but nothing materialised. Hence the applicant has approached this Tribunal.

3. The respondents have filed Counter Affidavit <sup>inter alia</sup> contending that at the time of the appointment of the applicant, he was sent for Medical examination and as per fit certificate No. 131 dated 16.4.1952 issued by the Assistant Surgeon grade I O.T. Railway Gonda, his age was recorded as on 16.4.1952 and accordingly the date of birth of the applicant was recorded as 18.4.1930 and as such the applicant was retired accordingly on 30.4.1988 and thus this being so, the applicant was retired properly and legally on 30.4.1988. It has further been stated that at the time of initial appointment of the applicant, applicant did not submit any school certificate in regard to his age and date of birth and as such on the basis of the Doctor's certificate and information given by the applicant, the date of birth of the applicant was recorded <sup>as</sup> on 18.4.1930 under Rule 145 R-II, and as much as the date of birth recorded by the Medical authority is always treated as final in such type of cases. Thus, in view of above circumstances the application of the applicant is liable to be dismissed.

4. The applicant has filed Rejoinder (reply) wherein almost all those view points have been

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reiterated as mentioned in the application.

5. I have heard the learned counsels for the parties and have thoroughly gone through the records of the case.

6. This is significant to point out that from the perusal of the content<sup>tion</sup> of the application and the papers annexed thereto it is apparent that the applicant was initially appointed on 25.4.1952 and was retired w.e.f. 30.4.1988 on the basis of the date of birth as recorded in his service records. This is also important to point out that during this long period of about 36 years of his service no representation <sup>- appears to have been -</sup> was made by the applicant for correction of his date of birth and only after the impugned order whereby he was retired w.e.f. 30.4.1988, he submitted his representation dated 12.5.1988, Annexure-3. Thus, this being so it would prima facie appear that the applicant had no grievance about his date of birth prior to his retirement, but, on receipt of the notice of retirement he submitted representation as referred to above and this circumstance in itself goes a long way in hitting hard the substratum of the case of the applicant.

7. This is also important to point out that from the scrutiny<sup>ing</sup> of the entire material on record the basis of the contention of the applicant <sup>- appears to be -</sup> is based on Annexure-1 and 2 which are copies of <sup>photostat</sup> ~~page extracts~~ <sup>3</sup> ~~of~~ the Health Card for Loco Driver and original of <sup>and 4</sup> the aforesaid Annexure-1 and Annexure-2 has been produced by the applicant which was in his own custody and first page thereof <sup>of</sup> makes mention as follows:-

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Zubair Ahmad Driver A,  
N.E. Railway/Loco Shed Gonda,  
Date 29.4.1982.

From the perusal of which it is evident that this Health Card for Loco Driver is lying with him since 29.4.1982 and when he was posted at Gonda, but the entries appearing at page 324 do not bear the signature of Controlling Officer as the place meant for signature of the Controlling Officer shown against S.No. 7 <sup>at page 4</sup> is left blank. In this connection, this is worth while making mention of this fact that from the perusal of records it is obvious that at the time of the appointment of the applicant the applicant was sent for Medical examination and as per his service No. 131 dated 16.4.92 issued by the Assistant Surgeon Grade-I Gonda his age was recorded as 22 years as on 18.4.1992 and accordingly the date of birth of the applicant was recorded as 18.4.1930 as the applicant at the time of his initial appointment did not submit any school certificate in regard to his age.

8. Thus, from the foregoing discussions and after considering all the facts and circumstances of the case, I find that the application is devoid of merit.

9. In the result, the application of the applicant is dismissed. No order as to cost.

  
Member-J

Lucknow Dated: 4/5/93  
/jw/

14/5/93