

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA.

O.A. No. 380 of 1996

DATE OF ORDER : 28.02.2000

Ramesh Kumar Lal Karn, S/o Dhanukdhari Lal, resident of
village - Baheri, P.S. - Baheri, District - Darbhanga.

....APPLICANT.

By Advocate Shri J.K. Karn

Versus

1. The Union of India through the Secretary cum D.G.,
Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Postmaster General, Bihar Circle, Patna.
3. The Postmaster General, Northern Region, Muzaffarpur.
4. The Superintendent of Post Offices, Darbhanga Division
5. The Sub-divisional Inspector, Darbhanga Central
Sub-division, Darbhanga.

....RESPONDENTS.

By Shri V.M.K. Sinha, Sr. Standing Counsel.

C O R A M

Hon'ble Mr. L. Hmingliana, Member (A)

O R D E R

L. Hmingliana, Member (A):-

This OA is against the order dated 14.12.1995
of the Sub-divisional Inspector (in short SDI) of Post
Offices, Darbhanga Central Sub-division, terminating
the services of the applicant as Extra Department
Delivery Agent (in short EDDA), Baheri post office with
effect from 14.12.1995 (A.N), and also against the
requisition sent to the Employment Exchange, Darbhanga on
19.07.1996 for a list of candidates for appointment to
the post.

2. The applicant was appointed to ~~the~~ post of EDDA, Baheri post office vide order dated 27.08.1965 (A/3). The reason given in the impugned order for termination of his services was that he had completed 65 years of age. The impugned order was made obviously after the date of birth of the applicant was determined, though the date was not given in the order. But the order was not in the usual form of letter to ^a retiring ~~him~~ a government servant reminding ^{him} of his date of retirement. On the other hand, it has the appearance of being a punitive order.

3. It is the case of the applicant that his date of birth was 15.02.1943 which he had given at the time of his appointment by submitting his school leaving certificate, and which date was entered in his descriptive particulars prepared by the respondents. He has also produced two documents at Annexure; A/5 and A/6 purporting to be respectively a gradation list of EDAs of Darbhanga Division corrected upto 31.12.1990, and the seniority list of EDAs permitted to appear at an examination. In both the documents, the date of birth of the applicant was mention^{ed} as 15.02.1943. The two documents are purported to have been signed by the Superintendent of Post Offices, Darbhanga Division. The document at Annexure -6 carries the title 'Annexure-1', but the covering letter or the memo has not been

produced.

4. Serious allegations are levelled at para 4.8 against the SDI and the Postmaster. It is stated that the SDI came to Baheri post office on 14.12.1995, and asked the applicant to come to the residence of the postmaster, and when the applicant came to his room, the postmaster locked the room from inside, and told him that he would be put in jail, because his school leaving certificate was forged, and also told him to write whatever he (postmaster) was saying, if he wanted to stay in his service, and that the applicant was compelled by the postmaster forcibly to write that he had completed 65 years of age, and that his certificate was forged, and putting his statement in his pocket, he demanded Rs.5000/- saying that he would destroy the statement (if he paid the amount). It is also stated that on 15.12.1995, the SDI came to the Baheri post office, and demanded Rs. 5000/-, and took his signature on the charge report, and gave him the impugned order, which was antedated.

5. The reply filed on behalf of the respondents in their written statement is briefly as follows; The applicant was appointed by the Inspector of Post Offices, Darbhanga Central Division vide his memo dated 01.09.1965, which date of appointment is available in the gradation list of the office (office of the PMG) but the relevant file of appointment is not available

with the present SDI (P), Darbhanga Central Sub-division, and neither are his descriptive particulars available with the present SDI (P) or the Lahariasarai H.O." The present SDI (P) guessed from his physical and his personal inefficiency in discharging his normal duties, and felt necessary to ascertain the date of birth (sic)". The applicant produced a photo copy of the certificate issued by Kamala Uchcha Vidyalay, Pokhram which indicated 15.2.1943 as his date of birth, and 15.9.1968 as the date of issue of the certificate. On 02.12.1995, the SDI (P) contacted the issuing Head Master, Shri Deva Chandra Kha who had retired in February, 1994. Shri Kha disowned the signature on the certificate. The SDI (P), then, prepared a questionnaire for the applicant to answer, and the applicant gave his answers in writing willingly and without any pressure on 14.12.1995 that the school leaving certificate was bogus. He declared that he did not get education in any school, and that he got his education at home, and also that he had completed 65 years of age. The SDI (P) issued the termination notice to the applicant on 14.12.1995. Then on 22.12.1995, the applicant represented to the Superintendent of Post Offices, Darbhanga Division alleging that he was made to retire by force by the SDI (P) Darbhanga, Central Sub-division, and he submitted a character certificate from the Head Master of the Government Kamala Uchcha Vidyalay Pokhram, bearing No. 4/48 dated 18.12.1995 giving the date of admission as 21.01.1956

and the admission No. as 49/59, and the date of birth as 15.02.1943. The Assistant Superintendent of Post Offices, Darbhanga inquired into the informations contained in the character certificate from the present Head Master, and the Head Master produced the admission register for the year 1955 for perusal of the Assistant Superintendent. The session of the school during 1956 was from July of the year upto June of the next year, and therefore, the question of admission of the applicant on 21.01.1956 was found to be baseless, and the admission serial No. 49/56 was in the name of one Sashikant Choudhary, S/o Babu Sahab Choudhary. It was fully established from the inquiry that the certificate produced by the applicant was bogus. The SDI (P), Darbhanga (E) Sub-division, in whose area the school was located, contacted the Head Master of the school on 27.07.1996, and the Head Master endorsed his remarks on the photo copy of the certificate that the name of applicant was not at serial No. 49/56 dated 21.01.1956 in the admission register, and that the certificate was bogus.

6. The applicant has not produced the school leaving certificate showing his date of birth as 15.02.1943. He has only produced copies of the impugned letter, ^{the} requisition for candidates sent by the SDI (P) to the Employment Exchange, Darbhanga, the memo dated 27.08.1965 of his appointment, the letter dated


10.12.1999 of the Superintendent of Post Offices asking him to intimate his date of birth with documentary evidence, the gradation list and seniority list of EDAs and his representation, but not other document in support of his case.

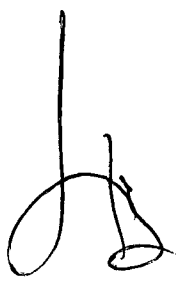
7. The respondents have done no better. They have filed ^{their} written statement without any enclosure at all, though some ~~documents~~ are stated to be enclosed. The omission to produce the documents is a lapse on the part of the respondents, and it shows their irresponsible manner of dealing with ^{even} serious allegations ~~A~~ levelled against them. They give the impression that they did not realise ^{the} grave implication of the allegations, some of which they have not even bothered to take the trouble of refuting. Besides, it is surprising that the appointment file and the service particulars of the applicant are not available in any of their offices, which would show them in a poor light. At this, Shri J.K. Karn, the learned counsel for the applicant raised ^a pertinent question; on what basis did they give the applicant's date of birth as 15.02.1943 in the gradation list and in the seniority list? That question is entirely valid, and there is no credible answer from the respondents. Should it not be held, then, that the date 15.02.1943 was recorded in the service particulars of the applicant as his date of birth?

8. On the other hand, the applicant himself has not produced with his ^{his} OA school leaving certificate, if that was at all given to him by the school. To establish his claim, he ought to have produced ^{an} extract from the school admission register showing his date of admission and his date of birth. Mere certificate may some-time prove to be inadequate for establishing the claim that the date of birth of a government servant was subsequent to the date given by the administration. The say of the respondents that he never went to school for education, and he had his education at home, and that the certificate produced by him was a forged document assumes credibility. Moreover, the difference between his due date of retirement as given by the respondents in the impugned letter at A/1 which was 14.12.1995, and when it should be if his date of birth in his service record was 15.02.1943 is a long long period ^{of} almost 8 years. It may, then, be quite possible that when the impugned letter was issued to him, he had already been showing signs of senility, and was unfit to be continued in service. If that was so, he would be a liability to the office, and in his latter years in service, a decrepit old man.

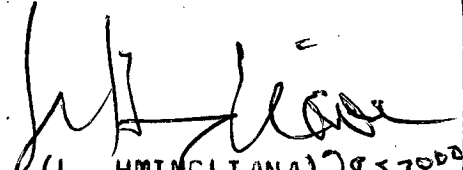
9. The respondents have given the impression that they bungled while forcing the applicant to retire on 14.12.1995. Now they have already appointed to the Baheri post office in his place a candidate selected out of those

who were sponsored by the Employment Exchange in response to the requisition dated 19.6.1996 (A/2), which requisition is also impugned in the OA. The applicant has not been granted by the Tribunal interim relief for his continuation in office, and he has been out of service for over four years. But in case he succeeds in the inquiry which the respondents will have to hold, and to which he will have to submit himself, he will have to be reinstated in service with back wages, which the authority will be at liberty to recover from those who were responsible for making ^{a hash} of the retirement of the applicant. Needless to say, the applicant will have to co-operate in the inquiry, and in case he does not, the inquiry can proceed even ex-parte, *And* he will have to be given a chance to defend his case and to refute the say of the respondents.

10. The application is hereby disposed of with the following directions. The respondents shall hold inquiry to determine the date of birth of the applicant for the purpose of his service record, and  give the applicant every opportunity for establishing his claim that his date of birth was 15.2.1943, and that date was duly recorded in his service particulars. In case he succeeds in ^{the} inquiry, he shall be reinstated in his post of Extra Departmental Delivery Agent at Baheri Post Office with all back wages. The inquiry shall be completed and the final order passed with intimation to the applicant



as early as possible, and preferably within six months
from the date of communication of this order. There shall
be no order as to costs.


(L. HMINGLIANA) 2832000
MEMBER (A)

/CBS/