

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

PATNA BENCH : PATNA

Date of Decision:- 7.2.2001

Registration No. OA-121 of 1996

Fulo Rai, Son of Late Ratan Rai, resident of village &
P.O. Chora Tabhaka, District Samastipur (Bihar),
working as R.U.S. Khalasi, under the Station Manager,
N.E. Railway Bhikhnathoree (West Champaran)

... Applicant

- By Shri Sudama Pandey, Advocate

Versus

1. The Union of India through General Manager,
N.E.Railway, Gorakhpur (U.P.)
2. The Divisional Railway Manager, N.E.Railway,
Samastipur (Bihar).
3. The Divisional Railway Manager (Personnel),
N.E.Railway, Samastipur

.... Respondents

- By Shri P.K.Verma, Advocate

Coram:- Hon'ble Shri Lakshman Jha, Member (Judicial):

O R D E R

Hon'ble Shri Lakshman Jha, Member (J):-

1. This is an application with prayer to quash the impugned order dated 28.9.95, as at Annexure-A-1, whereby and whereunder the applicant has been communicated advance information regarding his retirement date with effect from 29.2.96, and for direction to the Respondents to allow him to continue in service till 31.8.2006.
2. The applicant was initially appointed as a Vendor under N.E.Railway. Subsequently, he was

absorbed in unskilled Group 'D' post with effect from 26.9.90, vide Annexure-A-3. It is stated that at the time of initial appointment as Vendor, and also, at the time of screening test for Group 'D' post, he produced the copy of the School Leaving Certificate issued by the Headmaster, Rajkiya Madhya Vidyalaw, Kancha, Anchal Dalsinghsarai in the District of Samastipur as at Annexure-A-2, according to which, his date of birth is 15.8.1948. The same date of birth, i.e., 15.8.1948, was recorded in Service Book and Card 'A'. But, a few days back he (the applicant) was called upon in DRM (P), Samastipur Office, and his signature was obtained on a Blank Service Book, Card 'A' Form, and was told that the same was needed as the original ~~one~~ was not traceable. However, on 23.2.96, he was verbally informed by the Station Manager, N.E. Railway, Bikana Thoree, that he was due to superannuate on 29.2.96, on completion of 58 years of age on the basis of his date of birth as 1.3.38. Thus, it is the case of the applicant that his date of birth as recorded in the school leaving certificate and as furnished at the time of his initial appointment is 15.8.1948, and he is due to retire on 31.8.2006. Therefore, the prayer is made for direction to the Respondents as stated above.

2. The Respondents in their counter have stated that the applicant was medically examined at the time of his appointment on Group 'D' Post by the Railway Doctor in the year 1987, and he declared his date of birth as 1.3.1938, and put his L.T.I. thereon in proof thereof duly countersigned by the then Medical Superintendent, N.E. Railway as

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at Annexure-R-1. It is further stated that he (the applicant) submitted a certificate dated 29.4.81, from his Mukhiya of Ramchandrapur Grampanchait, wherein also his date of birth was given as 1.3.1938, as at Annexure-R-2. The Service Book and the A Card which were subsequently opened and on which the applicant put his signature and impression of his five fingers also show that his date of birth is 1.3.1938. A photo-copy of each of 'A Card', leave account and the service book is as at Annexures R-3, R-4 and R-5 respectively. It is denied that the applicant submitted the school leaving certificate issued by the Headmaster, Rajkiya Madhya Vidyalay, Kancha, Anchal Dalsinghsarai, District Samastipur at the time of his initial appointment as Vendor or on the Group 'D' post.

3. The applicant in his rejoinder has filed a photo-copy of the birth certificate by the Registrar and the photo-copies of the certificates granted by the Sarpanch and the Mukhiya as at Annexure-A-5 series. The photo-copy of the School Leaving Certificate with the date of his birth as 15.8.1948, was countersigned by the District Education Officer and was filed at the conclusion of the hearing.

4. Heard Shri Sudama Pandey, the learned counsel for the applicants and Shri P.K.Verma, the learned counsel for the Respondents and perused the record.

5. The triumph card of the applicant in support of his date of birth is School Leaving Certificate, issued by the Headmaster, Rajkiya Madhya Vidyalay, Kancha, Anchal Dalsinghsarai as at Annexure-A-2. But, it appears from this

certificate (Annexure-A-2) that it was issued on 20.7.93 i.e. to say, much after his appointment on Group 'D' post with effect from 26.9.90. It further appears that the father of the applicant had given the age of the applicant as six years five months and three days on the date of admission on 18.1.1955, and on the date of leaving the school after passing Class III, he was 09 years 4 months 16 days. The father of the applicant does not appear to have given the exact date of birth, which according to the calculation of the teacher concerned was 15.8.1948. The applicant, on the direction of the Tribunal got the photo-copy of the certificate countersigned by the District Education Officer in the year 1999. As said above, he (the applicant) was appointed with effect from 26.9.90, and he produced the School Leaving Certificate at that time. If he had produced the aforesaid School Leaving Certificate in 1990, before the screening committee or at the time of preparing the service record, there was no reason for obtaining the aforesaid certificate in 1993. Moreover, this school certificate is not supported by the certified copy of the School Admission Register. It has been testified by the person who issued the same. Therefore, it is very difficult to rely on this photo-copy of the School Leaving Certificate in support of the age of the applicant. The certificate granted by the Sarpanch and the Mukhiya, as at Annexure-A-2 and Annexure-A-5, series are also of the year 1996-97. As against the aforesaid proof of age as produced by the applicant, the Respondents have relied upon a number of documents in support of the facts

that the applicant had himself given his date of birth as 1.3.38 at the time of his initial appointment ~~to~~ to the Medical Officer. Annexure-R-1 is the photo-copy of the physical fitness certificate granted by the Medical Officer. It is dated 21.5.87. It bears the thumb impression of the applicant. It shows that the applicant had disclosed his date of birth as 1.3.38. Annexure-R-2 is the certificate dated 29.4.81, granted by the Mukhiya. It was produced by the applicant himself to the Respondents Department. It also shows that the applicant had disclosed his date of birth as 1.3.1938. The unimpeachable documents are Annexure-R-3, R-4 and R-5, which are copies of 'A Card', leave account and ^{the} Service Book opened at ^{aforesaid} the time of his initial appointment. All the ~~papers~~ contain the thumb impression and signature of the applicant and ^{they} show that the applicant has given his date of birth as 1.3.1938. The learned counsel for the applicant contended that the applicant was called in the office of the DRM(P), Samastipur, and was asked to give his ~~thumb~~ impression ~~on~~ the blank service book papers which were manufactured giving his date of birth as 1.3.1938. The stand of the learned counsel for the applicant appears quite farfetched. There appears no reason for the respondents Department to manufacture or forge the service record of the applicant. Therefore, the stand of the learned counsel for the applicant is not acceptable.

7. In view of the aforesaid discussions I find and hold that the applicant has given his date of birth as 1.3.1938, at the time of his initial appointment which was accepted by the Department.

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The Service Book, 'A Card' and leave account of the applicant were prepared on the basis of the aforesaid date of birth (1.3.38) as given by the applicant at the time of his initial appointment and there is no reason to disbelieve them.

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In view of the above discussions, I find and hold that the application is devoid of merit. It is, accordingly, dismissed. No costs.

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7.2.2001
(Lakshman Jha)
Member (J)