

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE *Tot. No. 1139/82*
Co. P. No. 1715/83 OF

NAME OF THE PARTIES *Shri Yogendra Lal Srivastava* Applicant

Versus

Govt. Serv. Respondent

Part A.

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CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

This file received from record room without
Dated *20/9/11* *Borta*

Counter Signed.....

Geet
Section Officer/In charge

On
Signature of the
Dealing Assistant

Central Administrative Tribunal
Lucknow Bench

Cause Title T.A. No 1139/87 1988

Name of Parties G. L. Srivastava Applicant

Union of India Respondents

Part A

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C

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[Signature]
4.1.94

[Signature]
30/12/93

AS
A
2

CIVIL
CRIMINAL

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case W.L. 1715-83
Name of Parties Yogendra Lal Srivastava vs. Union of India
Date of Institution 31-3-83 Date of decision _____

File no.	Serial no. of paper	Description of paper	Number of sheets	Court Fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
					Rs. P.			
	1	Whistle Blower and affidavit.	29	—	102.00			
	2	Index	1	—	5.00			
	3	Cons 3828(4) 883	2	—	5.00			
	4	Amended apph.	4	—	7.00			
	5	Short C.A.	12	—	2.00			
	6	Repeal affidavit	5	—	2.00			
	7	orch sheet	3	—	—			
	8	Back Com.	1	—	—			

I have this _____ day of _____ 198 , examined the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that they bear court-fee stamps of the aggregate value of Rs. _____, that all orders have been carried out, and that the record is complete and in order up to the date of the certificate.

Munsarim

Clerk

Date _____

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH
Gandhi Bhawan, Opp. Residency, Lucknow

7A 1139/87

No. CAT/Alld/Transfer/3782 Dated the 2/3/90

Y. S. Srivastava

APPLICANT'S

VERSUS

Union of India

RESPONDENT'S

①
To

Yogendra Lal Srivastava S/o Late Shri
Raja Ram Lal Srivastava No Village
Pipralandh, Post-office Jar Road
Distt. Deoria

Whereas the marginally noted cases has been transferred
by H. E. L. K. O. under the provision of the Administrative
Tribunal Act XIII of 1985 and registered in this Tribunal as ab

Writ Petition No. 1715/83 The Tribunal has fixed date of
of 1990. of the Court of 2.4 1990. The hearing
H. E. L. K. O. of the matter.
arising out of order dated If no appearance is made on your
passed by behalf by your some one duly autho
in to Act and plead on your behalf.

The matter will be heard and decided in your absence.
given under my hand seal of the Tribunal this 13
day of 2 1990.

dinesh/

[Signature]
DEPUTY REGISTRAR

1139/87(5)

A 2

10-7-90

No sitting Adj. to 27/7/90

27-7-90 Hon Mr Justice K Math, VC
Hon Mr K Ganga, DM.

Notice issued to the applicant BR
at the given address has returned
with the remark that the applicant
was not living at the given
address and said to have
constructed his own house
in Aligarh. Shri AK Chaturvedi
for the applicant says that he
is not aware of the applicant
or progress in his service matter.

Notice of applicant
has been return back.
With postal remark 4
यहाँ नहीं रहते हैं। पत्नी के साथ
नई अपनी भिन्न मकान अलीगढ़
में है। वह एक पले पला खेती
करते हैं। बापत हैं।

S. F. O.

25/7/90

Shri V. K. Choudhary is present for
the respondents and requests that
the case be taken up in the next
month when he will gather the
necessary information. The record
~~shows~~ shows that when this
petition was filed on 31-3-83 an
interim order was passed by the
Hon'ble High Court that the petitioner
would not be deemed to have
superannuated on that date. According
to the relief in the petition, the petitioner
had claimed a right to continue
till 31-3-85. The order also stated
that the interim order shall continue
was vacated by the Hon. High Court
on 13-5-83. It will be useful
to examine whether the applicant had
ceased to work since then or
allowed to work till 31-3-85.

P.T.O.

1189/0713

Shri V.K. Chaudhary will gather
the necessary information. Shri
Chaudhary may contact the
applicant and the case be
listed for final hearing
on 13.9.90

A.M.

V.C.

OR

S.F.H.

13.9.90

Hon'ble Justice K. Nath V.C.
" Mr. M.M. Singh AM.

10/9/90

pickup tomorrow

A.M.

(V.C.)


14/9/90

Hon. Mr. Justice K. Nath, V.C.
Hon. Mr. M.M. Singh, AM.

No one is present on behalf of the applicant.
Shri V.K. Chaudhary is present for respondents.
When the case was taken up on 27/7/90, it was
noticed that while the applicant claimed to
remain in employment till 31/3/85 as the
correct date of superannuation, he was ^{expected} ~~required~~
by the Deptt. to retire on 31/3/83. The interim
order was passed by the High Court to permit
him to continue to work beyond 31/3/83 but
that order was vacated on 13/5/83. Therefore
Shri Chaudhary was directed to gather information

15.11.90

On the request of both parties
Counsel Case is adjourned to
17.1.91.

Am. 

V.C.

17-1-41

No 5 Tings adjourn n 25.2.91

25.291

No Selling Adj to 21.5.91

21.591.

No sitting. Adj. to 23-9-91

23.9.91

No sitting adjⁿ 20.11.91
2

28.11.97

No. 8. Tugradf 20 27.1.92

18.2.93

D.R.

This file has been traced undated during physical verification 16

Issue notice again for 16.4.93 for

F.H. by U.P.C.

16.9-92

No sitting of D.B. adjourned
to 31.5.93.

to 31.5.93.

OR
Notice issued
on 2-4-93

on
Shore
NW
8541
20675

as to whether the applicant had actually ceased to work on 13/5/85 or was allowed to work upto 31/3/85. He says that the record is not traceable despite every effort. The records of 1985 are not very old ~~recent~~ and it should be possible to find them. At any rate, the Pension Payment Order should contain the date of retirement. The case is adjourned to 15/11/90 for final hearing on which date the learned Counsel for the respondents will furnish information as required. By way of extra precaution, ^{an} attempt may be made to serve the applicant's Counsel Sri R. A. Shankar who is said to be residing now at ^{Jodhpur} Havelock Road, opposite ~~Jodhpur~~ Bhawan Lucknow for which the office will issue notice to him.

M. M. L
Am.

VC

Notice issued
24-9-90

OR

Notice was issued to the applicant on 24.9.90

No answerd recd. cover has been return back.

S. R. H

L
13/11/90

Per

20/12/83

Hon. Mr. S.N. Prasad, J.M.
Hon. Mr. V.K. Seth, A.M.

The Case Called-out Several times at Internals. None for the Pastier. A perusal of record particularly the Order dated 29/1/82 appearing on the reverse on 3rd Page of the writ Petition No. 17/5/83 that this T.A. No. 1138/87 (WP 17/5/83) has been dismissed & having been instructions & it appears that due to 'inadvertence' this has been listed in the Category of the Cases awaiting decision.

It is worthwhile mention that Relief sought for in the aforesaid writ Petition is mainly to the effect not to interfere with the discharging the duties of the applicant till 31/3/83 & the impugned order whereby the age of Superannuation of the applicant was determined on 31/3/83.

In view of the above no further order is warranted.



W.K.
A.M.

J.M.

FA 1139/8)

WP 1715/81

31-5-93

Hon. Mr. S. N. Prasad, S.M.

Hon. Mr. B. K. Singh, A.M.

above for either parties.

Sist this case on

24/8/93

B
A M

J M

24-8-93

No sitting of D.M. only to

23-9-93

23-9-93

^{more}
Case and ^{referred}
~~No sitting of D.M. only~~
to 15-11-93

^{more}

No sitting of D.M. only to 20-12-93

for

OK

Shoreland

SPM 15.12.92

24/8/93

OK
S.M. only
embell.
18/11/93

OK
Shoreland RD
file
S.M.
16/12

Sl. No.	Description of Documents	Page-Number
12.	<u>Annexure-11</u> Petitioner's letter to the Commissioner of Income Tax.	-- 21-23
13.	<u>Annexure-12</u> Commissioner's letter to the Director (Ad.VI)(A) dated 9.3.83.	--- 24
14.	<u>Annexure-13</u> C.M.Ap. Stay Application before the Court of Judicature at Allahabad in the Case of Keshav Dutt Bajpai Vs. The union of India & others.	--- 25-26
15.	<u>Annexure-13-A</u> Copy of the High Court's order dt. 13.2.73. in re:- Keshav Dutt Bajpai	--- 27
16.	<u>Annexure-13-B</u> Order dated 13-2-73 passed by Hon'ble Mr. Justice K.N. Singh and G.N.	--- 28
17.	Affidavit in support of Writ Petition	--- 29-30
18.	V a k l a t n a m a (Power)	--- 31.

Presented By:-

R.A. Shankhdhar
(R.A. Shankhdhar)

Advocate,

Counsel for Petitioner

Lucknow dated,

31.3.1983.

INDIA COURT FEE

50 Rs.



12/12

In the Hon'ble High Court of Judicature at Allahabad,

(Lucknow Bench) Lucknow.

12.12.50 50-00
50 50-00
2/100 21/3
Writ Petition No. 1715 of 1983.

Yogendra Lal Srivastava ----- Petitioner

Versus

The Union of India through the Secretary & others

.... Respondents.

Writ Petition under Article 226 of the Constitution
of India

Y. Srivastava

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. 1715 of 1983.

A/11

Yogendra Lal Srivastava, son of (Late) Shri Raja Ram
Lal Srivastava, resident of Village Piprabandh,
Post-Office Lar Road, Distt. Deoria.

..... Petitioner.
Versus

1. Union of India through the Secretary Ministry
of Finance, New Delhi.
- ✓ 2. The Commissioner of Income Tax, Lucknow.
3. Central Board of Direct Taxes, New Delhi

..... Respondents.



writ Petition under Article 226 of the Constitution
of India

To

The Hon'ble Chief Justice and his Hon'ble his
Companion Judges of the aforesaid Hon'ble Court.

The humble petition of the above named petitioners
most respectfully sheweth as under :-

1. That the present writ petition is being
filed against the orders of retirement/superannuation

Yhs

(1)

one impressed Rs 50/-
five adhesive Rs 50/-
Total Rs 100/-

~~Correct but final Court-fee receipt~~
~~will be made on receipt of lower~~
~~Court record~~
~~In time up to~~
~~Papers filed. Copy of P. O.~~
~~should also be filed.~~
~~1/2 - Bench.~~

Last Sup order due 20/9
or 14-2-83

Order passed at Lucknow.

Hon. K. H. Goyal, J. *Submits*
Hon R.E.D.S.J. *ST-383*
80
2
3/13

Sr. U.K. Dhaen takes notice on behalf of opposite parties nos. 1 & 3. Sr. Shankhdhar states that notice could not be served on Sr. S.C. Misra, the standing counsel for opposite party no. 2. He undertakes to serve the notice on him as well. Sr. Dhaen prays for and is allowed three weeks' time to obtain instructions. List thereafter. In the meantime the petitioner shall not be deemed as supersannuated on 31-3-1983.

Sila

31-3-1983.

Hon. K. H. Goyal, J.
Hon R.E.D.S.J.

Sr. S.C. Misra has appeared before us today. As prayed by him the case shall be taken up on 4-4-83 for further orders. Sr. Misra will inform Sr. Shankhdhar and obtain a copy of the writ petition from him in the meantime.

Shree

1-4-1983.

Hon. K. H. Goyal, J.
Hon R.E.D. Sharma, J.

As prayed Sr. Shankhdhar has sent work of about this nature in case shall be put up on 4th April, 1983.

4-4-83

R

-2-

of the petitioner allegedly on his attaining the age of 58 years.

A
12

2. That the petitioner was appointed as L.D.C. in the Income Tax Department on 25.2.1946 on which post he worked till 31.12.1949. He was promoted as U.D.C. on 1.1.1950 and worked as such till 30.2.1963. He was subsequently promoted as the Head Clerk on 14.2.1963, on which post he worked till 7.12.1969. By sheer dint of his hard and meritorious work the petitioner was promoted as [✓]Inspector on 8.12.1969 and, thereafter, as I.T.O. with effect from 13.2.32.

3. That the petitioner was not aware of his date of birth entered with High School Certificate which was also misplaced. As per horoscope his correct date of Birth is 19.3.1927 and not 4.3.1925. In the circumstances the petitioner wrote a letter to the C.M.O., Lucknow, requesting him to examine him and give his opinion with respect to his age. T.C. of his letter is annexed as Annexure-1 to this writ-petition.

4. That the C.M.O. Lucknow, by letter 20.11.1982 informed the petitioner that he should present himself on any day and also bring supporting evidence. (True copy is annexed as Annexure-2).

5. That the C.M.O., examined the petitioner and indicated that he appears to be of 56 years of age. *as per abstract of Govt Medical Officer*
True copy of report is annexed as Annexure-3 to this writ-petition.

....p/2



Hon. K. W. Goyal J.
Hon. K. D. S. J.

Sr. Mannan
who has made a
mention on behalf
of Sr. Shankhdhar
undertakes that on
0.4.1983 even if
Sr. Shankhdhar is
unable to come
the petitioners will
be represented
by some other
counsel.



Sd/-

4.4.1983

6. That after having received, the report of C.M.O. the petitioner made a representation for correction in his age (True copy is annexed as Annexure-4)

7. That the said representation was forwarded by the C.I.T., Lucknow the Central Board of Direct Taxes New Delhi along with the report of the C.M.O., dated 17.12.1982. Annexure-5

8. That respondent no.1 by letter dated 17.2.83 required the petitioner to furnish the following information (i) full service particulars i.e. educational qualification date of entry in the Government Service/Income Tax Department (ii) Photostat copy of the High School Examination Certificate (iii) other documentary evidence to support his claim. True copy is annexed as Annexure-6 to this writ petition).

9. That the petitioner belongs to village Piprabandh P.O. Lar, District Deoria.

10. That the petitioner contacted respectable persons of locality where he was born and collected sufficient evidence to prove that his date of birth was on or about Holi in the year 1927, accordingly the age of superannuation of petitioner would be 31.3.1985.



29.1.92

Hon. Mr. Justice V.C. Srivastava, Jc.
Hon. Mr. A.B. Gostlu, A.M.

By lapse of time, the respondents
have not granted any
benefit of I.T.O. to the
applicant till 31.3.1985
and that date has
also been expired
long ago. So the
application has been
dismissed as infructuous
without any order as
to costs.

lc
vc.

Am.

(NW)

P/12

-4-

11. That the petitioner approached Gram Pradhan of the concerned village. He gave a Certificate that the petitioner was born on or about Holi in the year 1927. A similar certificate was also given by the Lekhpal. True copies of these certificates are annexed as Annexures Nos. 7 and 8, to this writ petition.

12. That it may be stated here that a circular was issued by the respondent no.1 on 14.2.82 containing the names of persons who were due to retire in the next 24 - 30 months. The name of the petitioner appeared at Serial Number-1. At the said circular the date of superannuation of the petitioner was shown as 31.3.83. Annexure 9

13. That the petitioner informed his mother that he would be retiring on 31.3.83 according to the date entered in the records and that suitable arrangement will have to be made. The mother of the petitioner informed the petitioner that in fact petitioner was born on or about Holi in the year 1927 and as such he would be attaining the age of 58 years only in the month of March, 1985. This led the petitioner to make application to the CMO Lucknow requesting him to certify his age.

14. That the mother of the petitioner also give an affidavit about the aforesaid fact. A true copy of the affidavit is ^{annexed as} Annexure 10 to this writ petition.



15. That the certificate of gram pradhan in original along with two photostat copies and certificate of the Lekhpal in original along with two photostat copies as also affidavit of the mother of the petitioner in original were sent to the C.I.T. along with letter on 1.3.1983. True copy of this letter is annexed as Annexure-41 to this writ-petition.

16. That the C.I.T. on 9.3.1983 forwarded a copy of the letter of petitioner dated 9.3.83. *as per Annexure 12*

17. That inspite of the fact that the petitioner has taken all necessary steps in this regard, his representation has still not been disposed of by the competent authority.

18. That in similar case the Respondent No. 3 did not dispose of the representation. *Annexure 13-4* On this ground along this Hon'ble Court in the writ petition No. 1720 of 1975, has been pleased to pass the following order s:-

"Having heard the learned Counsel of the petitioner as well as learned Counsel of the respondents, we direct that the petitioner shall not be retired from service on the basis of impugned notice."

Y/S





- 21(a) That from Income Tax Officer Headquarters the deponent has received a communication dated 12th April 1983 through which the petitioner has been informed that his representations dated 24-11-82 and 7th March 1983 have been rejected by the Government of India, a copy of the said letter dated 12-4-83 is annexed as Annexure XIV to this affidavit.

21(b) That from the language of the letter it is evident that no reasons have been recorded for rejection.


28/7

19. That , thereafter, the Respondents No. 2 and 3 looked into the matter thoroughly and the necessary corrections in the date of birth were made.

20. That there is an imminent threat of the petitioner being required to hand over the charge on 1.4.1983.

21. That the petitioner would suffer substantial and irreparable loss if he is not allowed to discharge his duties as ITO during the pendency of the writ petition.

22. That feeling aggrieved by the ^{impugned} order passed by Respondent No. 2 and having no other alternative and efficacious remedy, the petitioner begs to prefer this writ petition, on the following, amongst, other,

-: Grounds :-

(i) Because the petitioner has not attained the age of superannuation i.e. 58 years.

(ii) Because the petitioner is in fact 56 years of age.

(iii) Because the age of petitioner has been duly verified by the C.M.O. Lucknow.



Amended as
per Court order
dated 27-4-83
passed in case A
1715(W) of 83

[Signature]
29-4-83

[Signature]

(iv) Because an affidavit of the mother of the petitioner along with several supporting documents have been sent to the competent authority.

(v) Because representation of the petitioner has not yet been considered by the competent authority.

(vi) Because retirement of petitioner at this age would visit him with evil consequences and would result in loss of job and emoluments.

(vii) Because the impugned order of the superannuation of petitioner is illegal and without jurisdiction.

(viii) Because in the circumstances the petitioner is entitled to continue to discharge his duties till 31.3.1983.

(ix) *that the decision of the Government of India has been taken without considering the evidence produced by the deponent as such the decision is wholly arbitrary and mala fide.*
-: Prayer :-

Wherefore, it is most humbly and respectfully prayed that this Hon'ble Court may be pleased to :-

i) issue a writ, direction or order in the nature of Certiorari quashing the order of

13/8

-7-

superannuation of petitioner on 31.3.1983,
Continued as Annexure - 9 & 14. *OK*

(ii) issue a writ, direction or order in the nature of mandamus commanding respondents not to interfere with the right of the petitioner to discharge his duties as I.T.O. till 31.3.1985.

(iii) issue such order(s) or direction(s) may be deemed fit, just and proper in the nature of circumstances of the case be passed.

(iv) To award the cost of this writ petition in favour of the petitioner and against the respondents.

Lucknow dated,
31st March, 1983.

R.A. Shankhdhar
(R.A. Shankhdhar)

Advocate,

Counsel for the Petitioner.

② An

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

X/10

Writ Pet.No. of 1983.

Yogendra Lal Srivastava ----Petitioner.

Versus

Union of India and others ----Opp-parties.

Annexure no. 1

To,

The Chief Medical Officer,
Lucknow.

Sir,

I have to state that my age in the Service Book is unfortunately wrongly recorded and because of that I have to retire pre-maturely. This will entail unnecessary hardship for me. I request you kindly to examine me for my age and give your assessment. I am submitting my affidavit and other supporting documents to prove my contention.

Dated 19.11.1982.

Yours faithfully,

Sd.Y.L.Srivastava,
Income-tax Officer, F-Ward,
Lucknow Cir. Lucknow.



True-copy.

YLS

इन दि आनरेबुल हाई कोर्ट आफ़ जुडीकेयर ऐट इलाहाबाद,
लखनऊ बेन्च, लखनऊ।

A/20

रिट पिटीशन नम्बर -

आफ़ 1983

योगेन्द्र लाल श्रीवास्तव --

,,,,,, पिटीशनर

बनाम

यूनियन आफ़ इन्डिया द्वारा सेक्रेटरी मिनिस्ट्री

आफ़ फ़ाइनेन्स नई दिल्ली आदि -- ,,,, अपो-पार्टीज

अनैग्नर नम्बर - 2

प्रेमक,

मुख्य चिकित्सा अधिकारी,
लखनऊ।

सेवा में,

श्री वाई. एल. श्रीवास्तव,
आयकर अधिकारी एफ़ वाई,
लखनऊ सर्किल, लखनऊ।

संख्या ई- 7/82.

दिनांक नवम्बर 20, 1982

महोदय,

आप के पत्र दिनांक 19.11.82 के सन्दर्भ में सूचित करना है कि आप अपनी आयु के करेक्शन के सम्बन्ध में मेडिकल मैनुअल के पैरा 235 ए के अन्तर्गत अपने नियंत्रण अधिकारी द्वारा अपना केस अधोवस्ताक्षरी को संदर्भित करायें और उक्त संदर्भ के साथ किसी भी कार्य दिवस में प्रातः 10 बजे से अपरान्ह एक बजे के मध्य में आवश्यक कार्यवाही हेतु इस कार्यालय में उपस्थित हों। कृपया अपने साथ अपनी आयु के प्रमाण के सम्बन्ध में नोटरी हलफ़नामा एवं अन्य जो भी साक्ष्य आप के पास उपलब्ध हों उसे अवश्य लायें।

भवदीय,

ह0/-

आर0 एन0 सिंगल,
मुख्य चिकित्सा अधिकारी, लखनऊ।

सत्य- प्रतिलिपि।

Jogendra Lal Srivastava



In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Pet.No. of 1983.

Yogendra Lal Srivastava

----Petitioner.

Versus

Union of India and others

----Opp-parties.

Annexure no. 3

Extract of Medical Manual of Govt. of Uttar
pradesh

8. Age Certificate.

234-The question of determination of age in the living comes under the notice of the medical man in relation to:

- | | |
|----------------------------|---|
| 1.Criminal responsibility, | 6.Personal identity, |
| 2.Marriage, | 7.Making wills, |
| 3.Fecundity, | 8.Capability as a witness. |
| 4.Viability, | 9.Employment under the
Factories Act, etc. |
| 5.Rape, | |

235- For determining the age in the adult, no definite and reliable scientific criteria are available and adult life is reached and the estimation of approximate age in such cases is largely based on the general appearance of the individual concerned and the experience of the Medical Officer in this direction. Medical Officers should therefore exercise the utmost care in verifying the age of adults.

235A. Medical Officers should not grant a certificate of age without first ascertaining the purpose for which it is required and what evidence the applicant has in his possession to support the statement of his age which he makes to the Medical Officer concerned, all of which should be stated.

True extracts.

Yhs



In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Pet.No. of 1983.

Yogendra Lal Srivastava ----Petitioner.

Versus

Union of India and others ----Opp-parties.

Annexure No. 4

To,

The Commissioner of Income-tax,
Lucknow.

Sir,

I have to state that my service records are incomplete to the extent that my age is not correctly mentioned in the service-book. I belong to the rural areas of Eastern districts where age records are not kept by the parents. There was no records of vital statistics at that time maintained by any authority. My age was there mentioned by my parents on the basis of assumption and that continued till I pass my High School Examination. I, therefore, request you to get my age properly verified. I am submitting my affidavit for correct age. My case may please be referred to the Chief Medical Officer, Lucknow, for verification.

Yours faithfully,

Sd. Yogendra Lal,
Income-tax Officer, F-Ward,
Lucknow Circle,
Lucknow.

True-copy.



12
A21

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

X/23

Writ Pet.No. of 1983.

Yogendra Lal Srivastava ----Petitioner.

Versus

Union of India and others ----Opp-parties.

Annexure no. 5

No.Estt./F.No.43-663


Regd.

17.12.82.

The Director (Ad.VI),
Central Board of Direct Taxes,
New Delhi.

Sir,

Subject- Representation of Shri Yogendra Lal
Srivastava, ITO (Gr.B) Change of date
of birth-orders regarding-



Shri Yogendra Lal Srivastava, ITO, Gr (B) has made a representation for change of date of birth recorded in his service records (copy enclosed). He has sworn an affidavit (copy enclosed) that as per his original horoscope correct date of birth is 19.3.27 and not 4.3.25 as mentioned in the records, on the basis of his High School Certificate. He requested that his case may be referred to the Chief Medical Officer, Lucknow for verification of his age. The case was referred to the Chief Medical Officer pointing out that Shri Srivastava would in the normal course retire from service on 31.3.83 and any change in his date of birth will now have the result of altering the date of retirement. It was pointed out to the Chief Medical Officer that if rules permitted he may verify that age of Sri Srivastava keeping in view the provision of paras 234 and 235 -A of Medical Manual

Yhs

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of Govt. of Uttar Pradesh (copy of the relevant provisions of the Manual are enclosed).

2. Dr.R.N.Singhal, Chief Medical Officer, Lucknow has stated in his letter No.E-7/62 dated 17.12.82, copy enclosed, that in his opinion, by appearance Shri Srivastava appears to be 56 years of age. Since it is the opinion of a medical expert no comments are possible at his end.

3. Boards order on the petition of Shri Srivastava are solicited.

Yours faithfully,

Encl.as above . Sd.Dharni Dhar,
Commissioner of Incometax,
Lucknow.

True-copy.

Yhs



In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Pet.No. of 1983.

Yogendra Lal Srivastava -----Petitioner.

Versus

Union of India and others -----Opp-parties.

Annexure No. 6

Government of India,
Office of the Commissioner of Incometax.
Lucknow.

No.Estt./P.43-663

Dated Lucknow the 17th Feb.1983

To,

Shri Yogendra Lal Srivastava,
Income-tax Officer, F-Ward,
Lucknow Circle, Lucknow.

Sub: Change in date of birth-Representation
of Shri Y.L.Srivastava, I.T.O.Group 'B'
Question regarding-

Please refer to your representation dated 24.11.1982.

2.I am directed to request you to furnish the following documents in support of your claim that correct date of birth i.e. 19.3.1927;

- 1.Full service particulars i.e.education qualifications, date of first entry into Govt.service/Income-tax Deptt.
- 2.Photo copy of High School Certificate.
- 3.Other documentary evidence in support of your claim

(M.K.Johri)
Income-tax Officer(HQ)Admn.
Lucknow.

Even number of date:

Copy forwarded for information to the Inspecting Asstt.Commissioner of Incometax, Lucknow with reference to letter F.No.10(a)/82 dated 3.12.1982.

(M.K.Johri)
Income-tax Officer(HQ)ADMN.
Lucknow.

True-copy.

Yhs



इन दि आनरेबुल हाई कोर्ट आफ़ जुडोकेवर ऐट इलाहाबाद,
लखनऊ बेन्च, लखनऊ।

4/20

रिट पिटीशन नम्बर - आफ़ 1983

योगेन्द्र लाल श्रीवास्तव ---

....., पिटीशनर

बनाम

यूनियन आफ़ इण्डिया द्वारा सेक्रेटरी

मिनिस्ट्री आफ़ फ़ाईनेन्स नई दिल्ली आदि ----- अपोड - पार्टीज

अनैम्बर नम्बर - 7

प्रमाण पत्र -

मैं श्री बोंके सिंह पुत्र श्री सहदेव सिंह उम्र 80 वर्ष,
निवासी ग्राम पिपरा बांध पो. लार रोड, जिला देवरिया का रहने वाला
हूँ। मैं इस ग्राम का ग्राम प्रधान हूँ। श्री योगेन्द्र लाल श्रीवास्तव पुत्र स्वर्गीय
राजा राम लाल श्रीवास्तव का जन्म होली के आस पास सन् 1927 में हुआ
था। ये बात मुझे इसलिये खास तौर से याद है कि इनके पिता पटवारी थे और
इनके पैदा होने पर उन्होंने देहात में उस वर्ष काफ़ी उत्सव मनाया था। मेरे
ग्राम में किसी प्रकार का ऐसा कोई रिकार्ड नहीं रहता है था। जिसमें पैदाईश
और उम्र दर्ज की जाती हो परन्तु मुझे पूर्ण ध्यान है कि इनका जन्म 1927 में
होली के आस पास ही हुआ था। मेरा गाँव किसी महापालिका के क्षेत्र में नहीं
आता है।

हो - बोंके सिंह प्रधान,

ग्राम पिपरा बांध,

लार रोड,

॥सील॥

ग्राम सभा पिपरा बांध, जिला - देवरिया
जिला देवरिया।

4.3.83.

सत्य - प्रतिलिपि।

Yogendra Lal Srivastava



16 A25
इन दि आनरेबुल हाई कोर्ट आफ जूडोकेवर सेट इलाहाबाद,
लखनऊ बेंच, लखनऊ।

रिट पिटीशन नम्बर -

आफ 1983

योगेन्द्र लाल श्रीवास्तव ---

....., पिटीशनर

बनाम

यूनियन आफ इण्डिया द्वारा सेक्रेटरी

मिनिस्ट्री आफ फार्मिनेन्स नई दिल्ली आदि ---

... अपो - पार्टीज

अनैरजर नम्बर - 8

मैं राम बिलास लाल पुत्र स्वर्गीय श्री स्वामीनाथ लाल उम्र करीब 58 वर्ष, निवासी ग्राम पिपरा बांध, पो 0 लार रोड, जिला - देवरिया का रहने वाला हूँ, मैं इस ग्राम का लेखपाल रह चुका हूँ। मैं इसी गाँव का निवासी हूँ। मुझे इस बात का ज्ञान है कि श्री योगेन्द्र लाल पुत्र स्वर्गीय श्री राजा राम लाल, निवासी ग्राम पिपरा बांध पो 0 लार रोड, जिला देवरिया का जन्म होली के आस पास 1927 में हुआ था। लेखपाल होने के नाते मुझे यह मालूम है कि किसी प्रकार का कोई रजिस्टर ऐसा नहीं है जिससे उस समय की पैदाईश तथा उम्र का इन्द्राज किया गया हो। और न हमारा गाँव किसी नगर पालिका के क्षेत्र में आता है।

हो - राम बिलास लाल,
ग्राम - पिपरा बांध,
पो - लार रोड,
जिला - देवरिया,
दि 0 4.3.83 ई



सत्य - प्रतिलिपि।

Yogendra Lal Srivastava

Yogendra Lal Srivastava

---Petitioner

v/s.

The Union of India & others

--- Respondents.

Annexure No: 9

Government of India
Office of the Commissioner of Incometax
Lucknow.

Estt/Pen/C.No.104/73.

Dated Lucknow the 14-2-83

To

All the Assistant Commissioners of Incometax,
Charge I.T.Os, J.R.Os, Asstt. Controller of E.D.,
Valuation Officer in Lucknow charge and
Cy. Director, Regional Training Institute,
Lucknow.

Sub: Government servants who are due to retire
within the next 24 to 30 months -

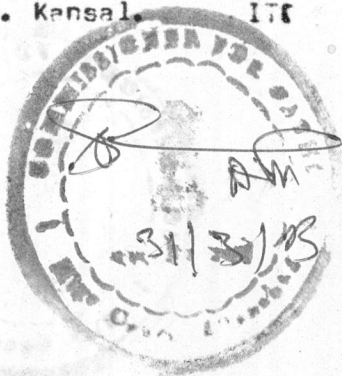
From this office records the under mentioned officers
and officials of Lucknow Charge have been found to be due for
retirement within the next 24 to 30 months. The date of retirement
may please be checked and verified from their service records. It
may also be ensured by checking the service records of other Govt.
servants, if any other person is due for retirement within the
next 30 months, if so the name of such officials may also be
reported to Zonal Accounts Officer (CBDT), 57, Ramtirth Marg,
Lucknow under intimation to this office.

2. All the Heads of Offices as also the next higher admin-
istrative authorities responsible for the maintenance of service
records of Heads of Offices who are also responsible for the
processing and finalisation of pension cases are requested to
confirm that verification regarding qualifying service of these
officers/officials has been completed and duly noted in the service
book and form 24; they should also confirm that the entries in the
service book regarding nomination for family pension and D.C.R.
gratuity have been made and that form 5 prescribed in C.C.S.
(Pension) Rules 1972 and also Form 10(B) have been supplied to
them.

GAZETTED

Sl. No.	Name of the Officer with designation.		Place of posting.	Date of retirement.
1.	Shri Y.L. Srivastava	ITO	Lucknow	31.3.1983.
2.	" H.M. Saxena	AAC	Moradabad.	31.7.1983.
3.	" J.S. Agarwal	IAC	(Asstt.) Moradabad.	31.9.1983.
4.	" S.N. Saxena	ITO	Lucknow.	31.1.1984.
5.	" Sushil Kumar	ITO	Moradabad.	31.1.1984.
6.	" R.R. Singh	ITO	Budaun.	31.3.1984.
7.	" B.L. Shah	ITO	Pithoragarh.	30.8.1984.
8.	" K.C. Saxena	ITO	Najibabad.	30.6.1984.
9.	" A.S. Bisen	A.C.	Lucknow.	30.9.1984.
10.	" Sia Saran Saxena	ITO	Lucknow.	31.10.1984.
11.	" J.S. Verma	ITO	Lucknow.	30.11.1984.
12.	" Sri Ram	ITP	Sarebarki.	31.12.1984.
13.	" Munno Lal Agarwal	ITO	Najibabad.	30.6.1985.
14.	" C.D. Basu	DT(A)	Lucknow.	31.7.1985.
15.	" S.C. Bhattacharya	ITO	Lucknow.	31.7.1985.
16.	" P.N. Kansal	ITC	Lucknow.	31.7.1985.

Contd...2



NON GAZETTED

Sl. No.	Name of the official with designation.		Place of posting.	Date of retirement.
1.	Shri Allah Bux	Safaiwala	Sitapur	30.6.1983
2.	" J.W. Holmes	L.D.C.	Lucknow.	30.11.1983
3.	" B.B.L. Saxena.	Insp. xxxxxxx	Chandausi.	31.1.1984.
4.	" C.M. Saxena	Supr.Gr.II	Bareilly.	31.1.1984.
5.	" B.D. Tripathi.	H.C.	Halduani.	31.1.1984.
6.	" S.M. Munir.	Supr.Gr.I	Lucknow.	29.2.1984.
7.	" V.B. Soni	Insp.	Lucknow.	30.4.1984.
8.	" Shiv Ratan Lal	Insp.	Hardoi.	31.7.1984.
9.	" R.D. Sinha.	H.C.	Lucknow.	31.7.1984.
10.	" G.C. Gupta	Insp.	Bareilly.	31.9.1984
11.	" L.C. Lalla	U.D.C.	Lucknow.	31.9.1984.
12.	" Chatur Singh	Chowkidar.	Halduani.	30.9.1984.
13.	" Bansi Lal	Insp.	Lucknow.	31.10.1984.
14.	" H.M.M. Singh	Insp.	Badaun.	30.11.1984.
15.	" D.C. Sharma	L.D.C.	Bareilly.	30.11.1984.
16.	" A. Haslamani.	U.D.C.	Lucknow.	31.12.1984.
17.	" Jokhey Lal	N.S.	Sitapur.	31.12.1984.
18.	" S.J. Bhagwani.	H.C.	Chandausi.	29.2.1985.
19.	" P.N. Rajdan.	L.D.C.	Lucknow.	29.2.1985.
20.	" Mohan Singh	N.S.	Kashipur.	31.5.1985.
21.	" R.N. Sinha.	Supr.Gr.II	Lucknow.	30.6.1985.
22.	" S.K. Tewari.	S.G.	Lucknow.	30.6.1985.
23.	" S.P. Dang.	Insp.	Najibabad.	31.7.1985.
24.	" Shiv Charan Singh	H.C.	Najibabad.	31.7.1985.
25.	" K.M.L. Sinha.	L.D.C.	Lucknow.	31.9.1985.
26.	" M.M.H. Sindiqi.	Insp.	Lucknow.	31.9.1985.
27.	" S.L. Burman.	L.D.C.	Lucknow.	30.9.1985.
28.	" Ram Autar Rai.	L.D.C.	Lucknow.	30.9.1985.

3. Pension papers of officials may please be prepared in form 1,3,5 & 7 and sent to Zonal Accounts Officer in form 8 circulated under this office endorsement C.No.189-304E/60/AI dated 2.2.1990 (Circular No.4) alongwith service book and Leave accounts so as to reach his office at least seven months in advance of the date of retirement and G.P.F. application may be sent one year in advance in part I of the form 10(B).

4. Receipt of the letter may please be acknowledged.

(M.K. Johri) ITO(HQ)ADMN.
for Commissioner of Income-tax,
Lucknow.

Even number of date.

Copy forwarded to the Accounts Officer, Zonal Accounts Office (CBDT), 57 Ramtirth Marg, Lucknow under Rule 56 of CCS(Pension)Rule 1972 as amended by Deptt. of Exp. Notification No.11(1)EV(A)/73 of 14.7.1975.

Copy also forwarded to the ITO(HQ)ADMN. CIT's Office, Allahabad for similar action.

R.K. with ~~xxxxxxx~~ 44 copies for placing in personal files and pension files of officials.

S.P./-

(M.K. Johri) ITO(HQ)ADMN.
for Commissioner of Income-tax,
Lucknow.



In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Pet.No. of 1983.

Yogendra Lal Srivastava

----Petitioner.

Versus

Union of India and others

----Opp-parties.

Annexure No. 10

To Whom it may concern.

Affidavit.

I, Mst. Surati Devi wife of late Shri Raja Ram Lal, aged about 74 years, resident of village Pipra Bandh, P.O. Lar Road, district Deoria, U.P., at present resident of M.G. 63, Sector 'C', Aliganj, Lucknow, do hereby solemnly affirm and state on oath as under:-

1. That the deponent's eldest son is Shri Yogendra Lal Srivastava.
2. That the deponent is at present running in 74 years of her age.
3. That deponent was married at the age of 17 years and her eldest son Sri Yogendra Lal was born at the age of 18 years.
4. That the deponent fully remembers that her eldest son was born near about Holi Festival in the year 1927 which was celebrated with great zeal as he was our first son.



Lucknow, dated,
7.3.1983

Sd. Surati Devi,
Deponent.

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Verification.

I, the abovenamed deponent do hereby verify that the contents of paras 1 to 4 of this affidavit are true and correct to my personal knowledge.

Verified and signed this the 7th day of March, 1983, within court compound, at Lucknow.

Lucknow, dated,
7.3.1983

Sd. Surati Devi,
Deponent.

I identify the deponent who has signed before me.

Sd. Surati Devi.

Sd. Illegible,
Advocate.

True-copy.

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In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Pet.No. of 1983.

Yogendra Lal Srivastava

----Petitioner.

Versus

Union of India and others

----Opp-parties.

Annexure no. 11

From-Yogendra Lal Srivastava,
Incometax Officer,
F-Ward, Lucknow Gir,
Lucknow.

To,

The Commissioner of Income-tax,
Lucknow.

Dated Lucknow the 1st March, 1983.

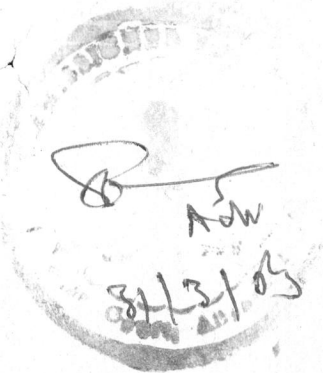
Through- The Inspecting Asstt. Commissioner of
Income-tax, Lucknow.

Sub: Change in date of birth-representation
of Sri Y.L. Srivastava, I.T.O. Group 'B'.

Kindly refer to your office letter No.Estt./P.N.
43-663 dated 17.2.83, in the above matter.

As desired, I am furnishing the following informati-
-on in support of my claim that correct date of birth
i.e. 19.3.27.

- i) That I passed I.Com. Examination from Board
of High School & Intermediate Education, Allahabad
in the year 1959. I entered in Income-tax Deptt.
as L.D.C. on 25.2.46.
- ii) That inspite of my best efforts High School
Examination Certificate could not be traced out.
It appears to have been misplaced/least in course
of my transfers from place to place and change of
residence from time to time. Hence a photo copy
of High School Examination Certificate is
not attached.



YLS

✓

iii) That I am resident of village Pipra Bandh, P.O.

Lar Road, Distt. Deoria where I took birth. I contacted few respectable & old personalities of the said place. They have furnished colateral evidence in support of my date of birth being Holi in 1927, according their memories. These certificates are from:-

- a) Gram Pradhan in original along with two photo copies.
- b) Lekhpal in original along with two photocopies.
- c) Affidavit of my mother along with two photo copies.

iv) That the details of my service particulars are as under:-

L.D.C.-- 25.2.46 to 31.12.49

U.D.C. - 1.1.50 to 13.2.68,

H.C. - 14.2.68 to 7.12.68

Inspector-8.12.69 to 17.2.82.

I.T.O. -18.2.82 to date.



3. As per official records my date of passing the High School Examination is 1944.

As per date of birth recorded I have passed the High School Examination at the age of 19 years which is apparently appears wrong.

In normal course a student passes his High School Examination at the age, of 15 to 16 years.

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4. In the circumstances stated above and also verification of age Certificate (which has already been submitted) from the C.M.O., Lucknow, I request your honour kindly to accept my representation dated 19.11.82, which was also duly supported by an affidavit and as the same has also been corroborated by the aforementioned persons.

Yours faithfully,

Sd.Y.L.Srivastava,
Income-tax Officer, F-Ward,
Lucknow Cir., Lucknow.

--
True-copy.

yhs



In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

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Writ Pet.No. of 1983.

Yogendra Lal Srivastava ----Petitioner.

Versus

Union of India and others ----Opp-parties.

Annexure no. 12

F.No.Estt./P.No.43-663 Dated Lucknow the 9 March, 83.

To,

The Director(Ad.VI)(A)
Central Board of Direct Taxes,
New Delhi.

Sir,

Sub:-Representation of Shri Yogendra Lal Srivas-
tava, I.T.O. (Gr.B)-Change of date of birth-
Orders regarding-

Please refer to Board's letter F.No.A-21016/1/83-
Ad.VI(A) dated 3.2.1983.

2. I enclose herewith a copy of letter dated 7.3.83
from Shri Yogender Lal Srivastava, I.T.O. (Cr.B) giving
full service particulars i.e. his educational quali-
fications, date of first entry into Govt. Service/
Income-tax Department. He has stated that his High
School Examination Certificate has since been
misplaced/lost and could not be traced out. In
support of his claim that the correct date of birth
is 19.3.1927, he has filed affidavit of his mother
and two certificates from village Pradhan and the same
are enclosed.

3. Board's orders on the petition of Shri Yoginder Lal
Srivastava are solicited. Shri Srivastava is in nor-
mal course retire from service on 31.3.1983.

Yours faithfully,
(Dharni Dhar)

Commissioner of Income-tax, Iko.

Encls: as above.

True-copy.

Yh



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In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

W.P.No. _____ of 1983.

Annexure No. 13

Yogendra Lal Srivastava ---Petitioner
Vs.
Union of India & others ---Opp-Parties

In the High Court of Judicature at Allahabad

Misc.Stay application

In

C.M.Writ Petition No.of 19 73

Kashav Dutt Bajpai- Petitioner

Vs.

1. Union of India
 2. C.B.D.t New Delhi,
 3. Commissioner of Incometax II Kanpur
- opposite-parties



To

The Hon'ble the Chief Justice & his
companion Judge of the aforesaid Court.

The humble petition of the petitioner
above named most respectfully sheweth:

- Yhe
- i) The full fact sgiving rise to the present
petition are setout in the writ petition
itself.

...p/2

2. That the petition has not reached the age of superannuation- and his real date of birth 8.2.18 and not 15.2.15 as wrongly recorded in the service ~~xx~~ book.
3. That if in accordance with the recorded age of the petitioner, he is superannuated, his writ petition would become ~~infractuous~~ infractuous

-: Prayer :-

It is humbly prayed that this Hon'ble Court be pleased to issue an interim order directing the the opposite-parties not to superannuate the petitioner till the decision of writ petition.

sd/-

Counsel for the Petitioner.



(True Copy)

Khinlaia

In the Hon(ble High Court of Judicature at Allahabad,
Lucknow Bench) Lucknow.

W.P.No. of 19883.

Yogendra Lal Srivastava

---Petitioner

V/s.

Union of India & others

---Opp-Parties

Annexure No. 13-A

Urgent
Stay proceeding

High Court of Judicature at
Allahabad
Civil side original jurisdiction

No. 1720

Dated Allahabad 23.2.
1973.

Office Memo
A.N.1014 of 1973.

Keshav Dutt Bajpai - Appellant

v/s.

Union of India & others- Respondent.



A copy of the High Court's order dt.the
13.2.73 in the above noted case forwarded for
necessary action.

sd/- (Dy.Registrar)

Encl:

1. Copy of application with
copy of Court's order dt. 13.2.73.

True copy

.....
Y. Srivastava

20 A36
28

In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench, Lucknow.

W.P.No. of 1983.

Yogendra Lal Srivastava --Petitioner

V/s.

Union of India & others ---Opp-Parties

Annexure No. 13-B

Order by the Hon'ble - K;N. Singh J

& Hon'ble Copi Nath- J

Issue notice

Having heard the learned counsel for the
petitioner as well as the learned counsel for
the respondents we direct that the petitioner shall
not retired from service on the basis of impugned
~~order~~ notice.



sd/- K.N.Singh

sd/- G.N.

13.2.73

True Copy

sd/-
Section Office(Grade-I)
Judicial Department High Court
Allahabad.

sd/-
JATH COMMISSIONER
High Court, (Lucknow Bench)
LUCKNOW

No. 87/285
Date 31/3/83

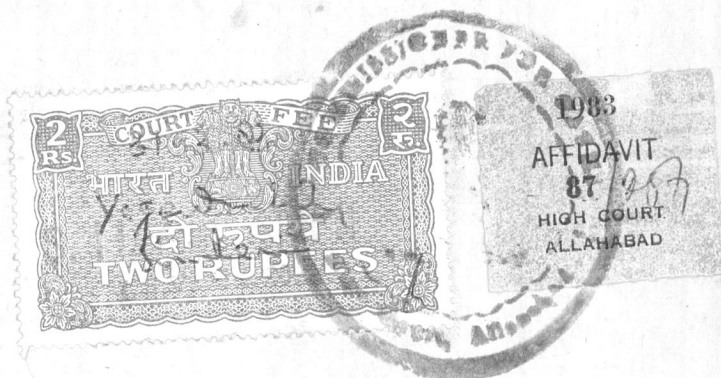
True copy

Y. Srivastava

A31
29

In the Hon'ble High Court of Judicature at
Allahabad, Lucknow Bench, Lucknow.

Writ Petition No. _____ of 1983.



Yogendra Lal Srivastava

---Petitioner

Versus

The Union of India & others ---- Respondents.

A f f i d a v i t

in support of Writ Petition under Article 226
of the Constitution of India



I, Yogendra Lal Srivastava, son of (Late) [✓] Lal [✓] aged about 56 years [✓]
Shri Raja Ram/Srivastava, resident of Village
Piprabandh, [✓] Post-Office- Lar Road, District
Deoria, the deponent do hereby ~~xxxxxx~~ [✓] solemnly
affirm and state on oath as under:-

1. That the deponent is himself 'Petitioner'
in the above noted writ [✓] petition and as such is
fully conversant with the facts deposed to herein.

2. That the contents of paras/ [✓] of the writ ^{1 to 21}
petition are true to my own knowledge.

.....p/2

Yogendra Lal Srivastava

3. That Annexures Nos: 1 to 8 of the writ petition are true copies and they have been compared with their respective originals.

Lucknow dated,
31.3.1983.

Yogendra Lal Srivastava
Deponent.

Verification

I, Yogendra Lal Srivastava, the deponent named above do hereby verify that the contents of paras 1 to 3 of this affidavit are true to my own knowledge, that no part of it is false and that nothing material has been concealed, so help me God.

Lucknow dated,
31.3.1983.

Yogendra Lal Srivastava
Deponent.

I identify the deponent who has signed before me.

R. S. Shankhwar
Advocate.

Solemnly affirmed before me on 31.3.83 at 11.20 am/pm by Shri Yogendra Lal Srivastava, the deponent who is identified by Sri R. S. Shankhwar, Clerk to Sri

Advocate, High Court, Allahabad/Lucknow.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read out and explained by me.

R. S. Shankhwar
OATH COMMISSIONER
High Court, (Lucknow Bench)
LUCKNOW

87/20
31/3/83



3 A 40

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

A
112

C.M. Application No. 3020 (w) of 1933

In re:

Writ Petition No. 1715 of 1933.

W. K. Singh



Yogendra Lal Srivastava, son of (Late) Shri Raja Ram
Lal Srivastava, resident of Village Piprabandh,
Post-Office Lar Road, District Deoria,

---Applicant(Petitioner)

Versus

1. Union of India through the Secretary Ministry
of Finance, New Delhi.
2. The Commissioner of Income Tax, Lucknow.
3. Central Board of Direct Taxes, New Delhi.

....Respondents.

Application for Stay

The humble petition of the above named applicant
(petitioner) most respectfully sheweth as under :-

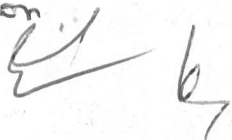
That for the facts, reasons and circumstances
of the case, it is most humbly and respectfully

YK

....p/2

Hon. K.N. Goyal, J.
Hon. R.C. Rao Sharma, J.

For orders see our
order of date on the back
of the writ petition.



File

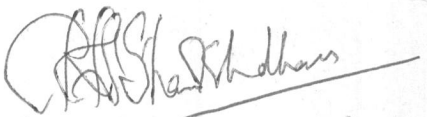
31.3.1983.

~~XXXXXXXXXXXX~~

of the case stated in the accompanying writ petition which is duly supported by an affidavit, it is most humbly prayed that this Hon'ble Court may be pleased to stay the impugned order of superannuation of petitioner-applicant on 31.3.1983, and commanding the respondents not to interfere with the right of the applicant(petitioner) to discharge his duties as ITO till 31.3.1985.

Such any other order(s) or direction(s) be deemed fit, just and proper by this Hon'ble Court be also passed in favour of the applicant(petitioner).

Lucknow dated,
31.3.83.


(R.A. Shankhdhar)

Advocate,
Counsel for the Petitioner-
Applicant.

u/ A42
1

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

C.M. Appn. No. of 1983

in re:

Writ Petition No. 1715 of 1983



Yogendra Lal Srivastava ... Applicant
(Petitioner).

Versus

Union of India and others... Respondents

Amendment application

The petitioner-applicant submits as under :

1. That due to the subsequent developments narrated in the accompanying affidavit amendment in the writ petition is necessary, hence this amendment application.

Therefore, it is prayed that the following amendment may kindly be allowed to be added in the writ petition:

- (a) Paras 2 and 3 of the accompanying affidavit may kindly be allowed to be added as paras 21(a) and 21(b) of the writ petition.
- (b) Annexure XIV may be allowed to be added as annexure XIV to the writ petition.
- (c) Para 4 of the accompanying affidavit may be allowed to be added as ground no. ix of the Grounds.
- (d) In clause (i) of the prayer after annexure IX annexure XIV be allowed to be added.

Dated: Lucknow:
April 18, 1983

A. Sharma
Counsel for the petitioner.

4/2 A 43

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

Writ Petition No. 1715 of 1983



Yogendra Lal Srivastava Applicant
(Petitioner).

Versus

Union of India and others Respondents

A F F I D A V I T

aged about 55 years

I, Yogendra Lal Srivastava, son of
(late) Shri Raja Ram Lal Srivastava, resident of
village Piprabandh, post office Lar Road, district
Deoria do hereby solemnly affirm and state on oath
as under :

1. That the deponent is petitioner in the
above-mentioned writ petition and as such he is
fully conversant with the facts and circumstances
stated hereinafter.
2. That from Income Tax Officer Headquarters
the deponent has received a communication dated
12th April 1983 through which the petitioner has
been informed that his representation dated 24.11.82
and 7th March 1983 have been rejected by the Government
of India, a copy of the said letter dated 12.4.1983
is annexed as annexure XIV to this affidavit.

3. That from the language of the letter



*Yogendralal
Srivastava*

it is evident that no reasons have been recorded for rejection.

4. That the decision of the Government of India has been taken without considering the evidence produced by the deponent, as such the decision is wholly arbitrary and malafide.

Yogendra Lal Srinivastava

Dated: Lucknow:

Deponent.

April 17, 1983

Verification

I, the above-named deponent, do hereby verify that the contents of paras 1 to 4 are true to my own knowledge. Nothing is wrong in it and nothing material has been concealed, so help me GOD.

Yogendra Lal Srinivastava

Dated: Lucknow:

Deponent.

April 17, 1983

I know the above-named deponent, identify him and he has signed before me.

D. N. Tewari

Dated: Lucknow:

Clerk to Sri A. Mannan, Advocate.

April 17, 1983

Solemnly affirmed before me on this 17 day of April, 1983 at 8.15 a.m./p.m. by the above-named deponent, who has been identified by the Clerk to Shri A. Mannan, Advocate, Allahabad High Court, Lucknow Bench, Lucknow.

I have satisfied myself by examining the deponent that he fully understands the contents of this affidavit which was read out to him and explained by me.

M. M. Rahman
(M. M. RAHMAN)

JATH COMMISSIONER
High Court, Allahabad
Lucknow Bench

No. 316/40
Date 17/4/83



Ap
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R

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench Lucknow.

Writ Petition No. _____ of 1983

A
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r

Yogendra Lal Srivastava Applicant
(Petitioner)

Versus

Union of India & Others Opp-Parties

Annexure No. XIV

No. Esstt/P.No. 43-663/235

Income Tax Officer (Hqrs.) Admn.
Office of the Income Tax
Commissioner, Lucknow.

Dated the 12 April, 1983.

To

Shri Yogendra Lal Srivastava,
Income-tax Officer (Statiscal),
C.I.T., Office,
Lucknow.

Subject:-Representation dated 24.11.1982
regarding change in date of birth-
Orders regarding -

Please refer to your representations dated 24.11.82
and 7.3.1983.

2. I am directed to inform you that your representation
for change in date of birth has been carefully consid-
-ered by the Govt. of India and the same has been
rejected.

Sd/- M.K. Johri
Income-tax Officer (Hqrs.) Admn.,
Lucknow.

Even No. of date/

Copy to Shri Yoginder Paul, Under Secretary,
Central Board of Direct Taxes, New Delhi with reference
to his letter No. F.No.A-21016/1/83-Ad.VI dated
8.4.83 for information.

(M.K. Johri) Income Tax Officer
(hqrs.) Admn., Lucknow.



Yogendra Lal Srivastava

2.

he is fully conversant with the facts and circumstances of the case. He has been authorised to file the present affidavit on behalf of opposite-party no. 2. A 52

2. That the present writ petition has been filed by Sri Yogendra ^{Lal} ~~Nath~~ Srivastava against his superannuation on 31.3.83 on the ground that his date of birth had been wrongly recorded as 4.3.25 instead of 19.3.27. He has claimed that his correct date of birth is 19.3.27 and as such he should not be retired on 31.3.83 and instead would be liable to be retired in the month of March, 1985 according to his correct date of birth.

3. That in the writ petition he had also mentioned that he had submitted his representation which had been forwarded to the respondents 1 and 3 and that the same had not yet been decided.

4. That the writ petition was listed on 8.4.83 on which date the Hon'ble Bench was pleased to direct that the case now be listed on 18.4.83 on which date information regarding the disposal of the representation of the petitioner ^{would} ~~is~~ also be furnished to the Hon'ble Court.

5. That the respondent no. 2 has received the communication from the respondent no. 1 through ^{telegram} ~~letter~~ dated 8/4/83 followed by ^a ~~letter~~ dated 15th April, 83 informing that the representation of the petitioner regarding change of date of birth had been carefully examined ^a in consultation with the department of Personnel



Satish Chandra

3.

A.Rs. but the same was rejected. The same had been duly communicated to the petitioner on 12.4.83. ^{AS}
A true copy of the said communication letter dated 12th April, 83 ~~xxxxxxx~~ and the letter dated 15.4.83 are being annexed herewith as annexure no. C1 and C-2 to this affidavit.

6. That it may also be mentioned here that the date of birth of Sri Yogendra Lal Srivastava, ITO was entered in the service record on the basis of his ^{own} ~~was~~ declaration and on the basis of High School certificate which he had produced as documentary evidence, at the time of entry into the Income Tax Department as per procedure laid down by the Government of India for the purpose. As per his High School certificate his date of birth 4.3.25 has correctly been entered in the service record and the question of ^{all} ~~entering~~ his ^{date} of birth on the basis of evidence now produced by him does not arise. In this connection, the attention of this Hon'ble Court is drawn to the Rules 79 and 80 of the Federal Financial Rules, 1963, a true copy of which is being annexed herewith as annexures nos. C-3 to this counter affidavit, and to the note 5 appended below the Fundamental Rule 56 read with the Department of Personnel and A.Rs. Notification No. 19017/7/79- Ests A. dated 30.11.79. A true copy of the said notification dated 30.11.79 is being annexed herewith as annexure no. C4 to this counter affidavit. The said Rules and Notification have statutory force and a perusal of the same would show that the Rules do not provide for any change in date of birth at this late stage.



Satish Chandra

AS/

4.

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7. That the respondents nos. 2 and 3 reserve the right to file a detailed counter affidavit to the writ petition if found necessary.

Satish Chandra
Deponent.

Dated Lucknow.

April 18, 1983.

I, the above named deponent do hereby verify that the contents of para 1 of the affidavit are true to my own knowledge, those of para 7 are true on the basis of legal advice and those of paras 2 to 6 are true on the basis of the record.

Satish Chandra
Deponent.

Dated Lucknow.

April 18, 1983



I identify the deponent above named who has signed the affidavit before me.

S. K. B.
Clerk.

Solemnly affirmed before me on 18-4-83 at 9.00 am/pm by the deponent Sri Satish Chandra who is identified by Sri S. K. B. Brij Nandan Srivastava, Clerk to Sri S.C. Misra, Advocate, High Court, Lucknow Bench, Lucknow. I have satisfied myself by examining the ~~deponent~~ deponent that he understands the contents of the affidavit which have been read over and explained by me.

Satish Chandra

A. N. Soulay
Oath Commissioner
High Court, Lucknow Bench

No. 28(311)
Date 18/4/83

A 52 5

In the Hon^{ble} High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.

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SS

Writ Petition No. 1715 of 1983.

Yogendra Lal Srivastava. ...Petitioner.

Versus

Union of India. ...Opp-party.

ANNEXURE NO. C-1

No.Estt/P.No. 43-663

Dated the 12 April, 1983.

To

Shri Yogendra Lal Srivastava,
Income-tax-Officer (Statiscal),
C.I.T.Officer,
Lucknow.



Subject:- Representation dated 24. 11. 1982 regarding
change in date of birth-Orders regarding -

Please refer to your representations dated
24.11.82 and 7.3.1983.

Satish Chandra

2. I am directed to inform you that your
representation for change in date of birth has been
carefully considered by the Govt. of India and the
same has been rejected.

(M.K.JOHRI)
Income-tax-Officer(Hqrs)Admn.,
Lucknow.

A53 6

-: 2 :-

1/50

Even No. of date/

Copy to Shri Yogindra Paul. Under Secretary,
Central Board of Direct Taxes, New Delhi with reference
to his telegram No. F.No.A-21016/1/83-Ad.VI dated
8.4.83 for information.

Sd/-

(M.K.Johri)

Income -tax-Officer (Hqrs) Admn.,
Lucknow.

Satish Chandra

True copy



A 54 7

In the Hon'ble High Court of Judicature at Allahabad, ¹/₅₇
Lucknow Bench, Lucknow.

Writ Petition No. 1715 of 1983.

Y.L. Srivastava.

...Petitioner.

Vs.

Union of India.

...Opp-party.

ANNEXURE NO. C-2

F.No. A.21016/1/83-AD.VI(A)

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

DEPARTMENT OF REVENUE

NEW DELHI THE 15TH APRIL, 1983.



To,

The Commissioner of Income-tax,
Lucknow (U.P.)

Satish Chandra

Subject:- Change in date of birth-Representation
of Shri Yogendra Lal Srivastava, ITO-
Question regarding-

Sir,

With reference to your letter No. Estt./P.No.43-

-: 2 :-

663, dated 12. 4. 1983 on the subject cited above, I am directed to say that the representation of Shri Yogendra Lal Srivastava, Income-tax Officer for change in his date of birth entered in the service records from 4. 3. 1925 to 19. 3. 1927 on the basis of the evidences now produced by him, has carefully been examined in consultation with the Deptt. of Personnel & A.Rs. but it has not been found possibl to agree to his request. He may please be informed accordinbly.

Yours faithfully,

Sd/-

(YOGINDER PAUL)

UNDER SECRETARY TO THE
GOVT. OF INDIA.

Satish Chandra

TRUE COPY



A 56 9

IN THE HON'BLE HIGH COURT OF JUDICATURE
ALLAHABAD (LUCKNOW BENCH) LUCKNOW -

Writ Petition No. 1715 of 1983

8/59

Sri Yogendra Lal Srivastava Petitioner

Vs.

The Union of India & Others Respondents

ANNEXURE No. C-3

General financial Rules 79. Date of Birth:-

(1) Every person newly appointed to a service or a post under Government shall at the time of the appointment declare the date of birth by the Christian era with as far as possible confirmatory documentary evidence such as matriculation certificate, municipal birth certificate and so on. If the exact date is not known, an approximate date shall be given.

(2) The actual date or the assumed date determined under Rule 80 shall be recorded in the history of service, service book, or any other record that may be kept in respect of the Government servant's service under Government and, once recorded, it cannot be altered, except in the case of a clerical error, without the previous orders of a Department of the Central Government or an Administrator.

NOTE 1. - Heads of Departments are authorised to exercise the powers delegated to a Department of the Central Government and an Administrator under Rule 79 in the case of non-gazetted servants under their control.

NOTE 2. - For the purpose of Rule 79(2), the Comptroller and Auditor General exercises the powers of Department of the Central Government in regard to persons serving in the Indian and Accounts Department.

NOTE 3. - See Note 5 below F.R.56

General financial rule 80

(1) If a Government servant is unable to state his exact date of birth but can state the year or year and month of birth, the 1st July or the 16th of the month respectively, shall be treated as the date of birth.

(2) If he is only able to state his approximate age, his date of birth shall be assumed to be the corresponding date after deducting the number of years representing his age from his date of appointment.

(3) When a person who first entered Military employ is subsequently employed in a Civil department, the date of birth for the purpose of the Civil employment shall be the date stated by him at the time of attestation, or if at the time of attestation he stated only his age, the date of birth shall be reduced with reference to that age according to sub-rule(2) of this rule.

Satish Chandra

A57 10

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD,
LUCKNOW BENCH, LUCKNOW.

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10

Writ Petition No. 1615 of 1983.

Y.L.SRIVASTAVA.

...PETITIONER.

VERSUS

UNION OF INDIA.

...OPPOSITE PARTY.

ANNEXURE NO.-C-4

(Copy)

No. 19017/7/79-Ests.A

Government of India

Ministry of Home Affairs

Department of Personnel & Administrative
Reforms

New Delhi, the 30th November, 1979.

...

NOTIFICATION:-

S.O. 3997. In exercise of the powers conferred by the proviso to Article 309 and clause (5) of article 148 of the Constitution ~~of India~~ and in consultation with the Controller & Auditor General of India in so far as persons serving in the Indian Audit and Accounts Departments are concerned, the President hereby makes the following rules further to amend the Fundamental Rules, namely :-

Satish Chandra



-: 2 :-

1. (a) These rules may be called the Fundamental
[Fourth Amendment] Rules, 1979.

(b) They shall come into force from the date
of their publication in the official Gazette,
2. For the existing note 5 below Rule 56, the
following note shall be substituted, namely :-

"Note 5- The date on which a Govt. servant attains the age of fifty-eight years or sixty years, as the case maybe, shall be determined with reference to the date of birth declared by the Govt. servant at the time of appointment and accepted by the appropriate authority on production, as far as possible, of confirmatory documentary evidence such as High School or Higher Secondary or Secondary School Certificate or extracts from Birth Register. The date of birth so declared by the Govt. servant and accepted by the appropriate authority shall not be subject to any alteration except as specified in this note. An alteration of date of birth of a Govt. servant can be made, with the sanction of a Ministry or Department of the Central Govt. or the Controller & Auditor General in regard to persons serving in the Indian Audit and Accounts Department, or an administrator of an Union Territory under which the Govt. servant is serving, if -

Satish Chandra

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12

--: 3 :-

12/62

- (a) a request in this regard is made within five years of his entry into Govt. service;
- (b) it is clearly established that a genuine bonafide mistake has occurred; and
- (c) the date of birth as altered would not make him ineligible to appear in any school or University or Union Public Service Examination in which he had appeared, or for entry into Govt. service on the date on which he first appeared at such examination or on the date on which he entered Govt. service."

Sd/- (R.C.Gupta)

Deputy Secretary to the
Government of India.

Satish Chandra

True copy.



(2)

3. That the contents ~~of~~ ^{of} Paras 2 to 5 need no comments. However, it is added that from the perusal of the communication dated 12.4.83 rejecting the representation of the deponent, it would be clear that no grounds whatsoever have been communicated to the deponent which led Opposite Party No.1 satisfied so as to enable her to reject the representation of the deponent. It is further added that the representation dated 24.11.82 of the deponent has been rejected hurriedly by passing non-speaking order without application of mind so as to meet the reply of the Writ Petition. Moreover, Union of India has been impleaded as Opposite Party No.1, it would have been just and proper that Opposite Party No.1 would have ~~its~~ come forward with ~~a~~ Counter Affidavit with an explanation stating the reasons which led her satisfied in rejecting the representation dated 24.11.1982 hurriedly particularly in the circumstances when the deponent has ^{been left with} no alternative but to file the above-mentioned Writ Petition.

4. That with regard to Para 6 of the Counter Affidavit, it is submitted that the Fundamental (Fourth Amendment) Rules, 1979 have been framed under Article 309 of the Constitution of India ^{and} came into operation only with effect from the 30th November, 1979, the date of their publication. These rules are



Yogesh Lal

(3)

indicative of the fact that they are not retrospectively operative. However, it is no doubt, correct that the deponent represented for the correction of his date of ~~birth~~^{birth} within the period specified in the Rules ^{AS} as they were not available when the deponent joined the Department of Income Tax. It is further emphatically asserted that the date of birth of the deponent has wrongly been ~~entered~~^{entered} into his High School Certificate and subsequently the same was recorded in the service records of the deponent. As a matter of fact the correct date of birth of the deponent is 19.2.27 instead of 4.3.1925. The contention of the deponent has been supported by the Medical Report as well as by the Affidavit of his mother who is the only ~~one~~^{one} in the whole of the universe whose testimony cannot be doubted.

5. That in reply to Para 7 of the Writ Petition, it is submitted that the Opposite Parties are not filing the parawise Counter Affidavit to this Writ Petition in order to suppress the truth from this Hon'ble Court and to get the intrim order vacated. Hence, it would be the pleasure of this Hon'ble Court to ask for the full Counter Affidavit so to meet the ends of justice.

6. That the deponent is advised to state that Opposite Parties have ~~bet~~^{bet}terly failed to make out the case for vacation of Stay Order, hence the Stay Order



Yogesh Lal

(4)

granted on 31.3.1983 by this Hon'ble Court be confirmed.

7. That the deponent after the receipt of the letter^{of} rejection of his representation dated 24.11.1982 and 12.4.1983 amended the Writ Petition.

8. That it would be in the interest of justice and fair play that the Opposite Parties be directed to file their Counter Affidavit and the Writ Petition be heard and finally decided.

Yogendra Lal Srivastava

Lucknow

Deponent

Dated: April 27th, 1983.

VERIFICATION

I, Yogendra Lal Srivastava, the above-named deponent do hereby verify that the contents of Para 1 to 7 are true to my own knowledge and those of Paras from 8 to x believed to be true. No part of this is false and nothing material has been concealed so help me God.

Yogendra Lal Srivastava

Lucknow:

Deponent

Dated: April 27, 1983

I identify the above-named deponent who has signed before me.

(R.A. SHANKHDHAR)

Advocate.

(5)

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Solemnly affirmed before me on 27.4.83

at 10.15 a.m./p.m. by the deponent [✓]Yogendra Lal

Sri Yogendra Lal Srivastava who is

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identified by Sri R.A.Shankhdhar, Advocate,

High Court, Lucknow (Bench), Lucknow. I

have satisfied myself by examining the

deponent that he understands the contents

of the affidavit which have been read

over and explained by me.

Meena Pandey
OATH COMMISSIONER

High Court, (Lucknow Bench)

27.4.83

No 55/297

Date..... 27/4/83



829

856

APPLICATION FOR INSPECTION



A/68

To,
The Deputy Registrar,
High Court of Judicature at Allahabad,
(Lucknow Bench) Lucknow.

Please allow inspection of the papers passed below. The application is urgent / Ordinary. The applicant is not a party to the case.

Full Description of case	Whether case Pending or decided	Full particulars Papers of which Inspection is required	Name of person who will inspect record	If applicant is not a party reason for inspection	Office report and order
Widow 17/5 of 1883 Y. L. Sarda - Petitioner Union of India	Remot	Full file	S. Chandra		<p>Office report</p> <p>Order for Inspection</p> <p>Deputy Registrar</p> <p>Date 2/5/53</p>

Date 2/5/53

Signature of applicant
or his Advocate

Inspection commenced at on 198

Inspection concluded at

Inspection fee paid by the applicant

Additional fee if any

2/5/53

In the Hon'ble High Court of Judicature
at Allahabad at Lucknow Bench

to
215

No. P. 10115 of 03

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69

Yours truly
Y

Humayun Khan

to
and

The applicant respectfully submits
as under

1. That the annexed copy of the Police
at 31.3.03 are being filed duplicate.
as per Court's order dated 27.4.03



Adnan
2.5.03

In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench, Lucknow.

...

Writ Petition No.1715 of 1983.

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70

Yogendra Lal Srivastava, son of

Versus

1. Union of India through the Secretary Ministry of Finance, New Delhi;
2. The Commissioner of Income Tax, Lucknow
3. CENTRAL BOARD OF DIRECT TAXES, NEW DELHI

..... Respondents

....

Writ Petition Under Article 226 of the Constitution
of India.

To

The Hon'ble Chief Justice and his Hon'ble his
companion Judges of the aforesaid Hon'ble Court.

The humble petition of the above named petitioners
most respectfully sheweth as under :-

1. That the preset writ petition is being filed
against the orders of retirement/superannuation of
the peititioner allegedly on his attaining the age
of ag 58 years.
2. That the petitioner was appointed as L.D.C.
in the Income Tax Department on 25.2.1946 on which
post he worked till 31.12.1949. He was promoted as
U.D.C. on 1.1.1950 and worked as such till 30.2.1968.
He was subsequently promoted as the Head Clerk on
14.2.1968, on which post he worked till 7.12.1969.

By sheer dint of his hard and meritorious work the petitioner was promoted as Inspector on 8.12.1989 and thereafter, as I.T.O. with effect from 18.2.1982.

3. That the petitioner was not aware of his date of birth entered with High School Certificate which was also misplaced. As per horoscope his correct date of birth is 19.3.1927 and not 4.3.1925. In the circumstances the petitioner wrote a letter to the C.M.O. Lucknow requesting him to examine him and give his opinion with respect to his age. T.C. of his letter is annexed as Annexure-1 to this writ petition.

4. That the C.M.O. Lucknow, by letter 20.11.1982 informed the petitioner that he should present himself on anyday and also bring supporting evidence. (True copy is annexed as Annexure-2).

5. That the C.M.O. examined the petitioner and indicated that he appears to be of 56 years of age. True copy of report is annexed as per abstract Govt's medical Manual Annexure -3 to this writ petition.

6. That after having received, the report of C.M.O. the petitioner made a representation for correction in his age (True copy is annexed as Annexure-4)

7. That the said representation was forwarded by the C.I.T., Lucknow the Central Board of Direct Taxes New Delhi along with the report of the C.M.O., dated 17.12.1982 Annexure-5.

8. That the respondent no.1 by letter dated 17.2.83 required the petitioner to furnish the following information (i) full service particulars i.e. educational qualification date of entry in the Government Service/ Income Tax Department (ii) Photostat copy of the High

School Examination Certificate (iii) other documentary evidence to support his claim. True copy is annexed as annexure - 5 to this writ petition.)

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9. That the petitioner belongs to village Piprabandh P.O. Jar, District Deoria.

10. That the petitioner contacted respectable persons of locality where he was born and collected sufficient evidence to prove that his date of birth was on or about Holi in the year 1927, accordingly the age of superannuation of petitioner would be 31.3.1985.

11. That the petitioner approached Gram Pradhan of the concerned village. He gave a certificate that the petitioner was born on or about Holi in the year 1927. A similar certificate was also given by the Lekhpal. True copies of these certificates are annexed as Annexures Nos 7 & 8 to this writ petition.

12. That it may be stated here that a circular was issued by the respondent no.1 on 14.2.1982 containing the names of persons who were due to retire in the next 24 - 30 months. The name of the petitioner appeared at Serial Number 1-. At the said circular the date of superannuation of the petitioner was shown as 31.3.83 annexure -9.

13. That the petitioner informed his mother that he would be retiring on 31.3.1983 according to the date entered in the records and that suitable arrangement will have to be made. The mother of the petitioner informed the petitioner that in fact petitioner was born on or about Holi in the year 1927 and as such he would be attaining the age of 58 years only in the month of March 1985. This led the petitioner to make application to the CMO Lucknow requesting him to certify his age.

14. That the mother of the petitioner also give an affidavit about the aforesaid fact. A true copy of the affidavit is annexed as Annexure-7 to this writ petition.

15. That the certificate of gram pradhan in original along with two photostat copies and certificate of the Lekhpal in original alongwith two photostat copies as also affidavit of the mother of the petitioner in original were sent to the C.I.T. alongwith letter on 1.3.1983. True copy of this letter is annexed as Annexure - 8 to this writ petition.

16. That the C.I.T. on 9.3.1983 forwarded a copy of the letter of petitioner dated 7.3.83 as per Annexure-12.

17. That inspite of the fact that the petitioner has taken all necessary steps in this regard, his representation has still not been disposed of by the competent authority.

18. That in similar case the Respondent No.3 did not dispose of the representation Annexure-13-A. On this ground along this Hon'ble Court in the Writ petition No.1320 of 1975, has been pleased to pass the following order :-

"Having heard the learned Counsel of the petitioner as well as learned Counsel of the respondents, we direct that the petitioner shall not be retired from service on the basis of impugned notice."

19. That, thereafter, the Respondents No.2 and 3 looked into the matter thoroughly and the necessary corrections in the date of birth were made.

20. That there is an imminent threat of the petitioner being required to hand over the charge on 1.4.1983.

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21. That the petitioner would suffer substantial and irreparable loss if he is not allowed to discharge his duties as ITO during the pendency of the writ petition.

✓ 21(a) That from the Income-tax Officer (H.Qrs) the deponent has received communication dated 12.4.83 through which the petitioner has been informed that his representation dated 24.11.82 and 7.3.83 has been rejected by the Govt. of India, a copy of the said letter dated 12.4.83 is annexed as Annexure XIV to this affidavit.

✓ 21(b) That from the language of this letter it is evident that no reasons have been recorded for rejection.

22. That feeling aggrieved by the impugned order passed by Respondent No.2 and having no other alternative and efficacious remedy, the petitioner begs to prefer this writ petition, on the following amongst, other,

Grounds

(i) Because the petitioner has not attained the age of superannuation i.e. 58 years.

(ii) Because the petitioner is in fact 56 years of age.

(iii) Because the age of petitioner has been duly verified by the C.M.O. Lucknow.

(iv) Because an affidavit of the mother of the petitioner alongwith several supporting documents have been sent to the competent authority.

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(v) Because representation of the petitioner has not yet been considered by the competent authority.

(vi) Because retirement of petitioner at this age would visit him with evil consequences and would result in loss of job and emoluments.

(vii) Because the impugned order of the superannuation of petitioner is illegal and without jurisdiction.

(viii) Because in the circumstances the petitioner is entitled to continue to discharge his duties till 31.3.1983.

(ix) That the decision of the Govt. of India has been taken without considering the evidence produced by the deponent as such the decision is wholly arbitrary and mala fide.

Prayer

Wherefore, it is most humbly and respectfully prayed that his Hon'ble Court may be pleased to :-

i) issue a writ, direction or order in the nature of Certiorari quashing the order of superannuation of petitioner on 31.3.1983, contained in Annexure -9.

(ii) issue a writ, direction or order in the nature of mandamus commanding respondents not to

interfere with the right of the petitioner to
discharge his duties as I.T.O. till 31.3.1985.

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(iii) issue such order(s) or direction(s) may be
deemed fit, just and proper in the nature of
circumstances of the case be passed.

(iv) To award the cost of this writ petition in
favour of the petitioner and against the respondents.

Lucknow dated,
31st March 1983.

(R.A. Shankhdhar)

Advocate,

Counsel for the petitioner.

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ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

w.p.

No.

1715

of 1983

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
31-3-83	<p>Mem R-N. Goyal, 7</p> <p>Mem R-C DS, 7</p> <p>Sri O. K. Dhaen takes notice - - -</p> <p>superannuated on 31-3-83</p> <p>sd K-N Goyal</p> <p>sd R-C DS</p> <p>31-3-83</p> <p>C.M. An N o 3828 @ 83</p>	
31-3-83	<p>Mem R-N Goyal, 7</p> <p>Mem R-C DS, 7</p> <p>For orders, see our order of date on the back of the w.p.</p> <p>sd K-N Goyal</p> <p>sd R-C DS</p> <p>31-3-83</p>	
1-4-83	<p>Mem R-N. Goyal, 7</p> <p>Mem R-C DS, 7</p> <p>Sri S. C. Misra has appeared before us - - -</p> <p>the w.p. from him in the meantime</p> <p>sd K-N Goyal</p> <p>sd R-C DS</p> <p>1-4-83</p>	

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Date	Note of progress of proceedings and routine orders	Dated which case is adjourned	
1	2	3	
4-4-83	<p> Hon R.N. Goyal, J. Hon R.C. D.S. J. As Sri Shankhathar has sent words — — — — — Put up on 6th April 1983. Sd K.N.G. Sd R.C. D.S. 4-4-83 </p>		
6-4-83	<p> 8-4-83 fixed with comr 3020ms 03 for order By court Bench </p>		
8-4-83	<p> Hon. U.C.S. J. Hon. K.N.G. J. With on 18th April 1983. On that date the Standing Counsel for opposite parties shall intimate the fate Court about the fate of the petitioners representation. Interim orders shall continue in the meantime. 8-4-83 8 </p>		
11-4-83	<p> 10-4-83 fixed with comr 3020ms 03 for order Hon. U.C.S. J. Hon. K.N.G. J. Put up on 20th April 1983. </p>	<p> By court Bench </p>	

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No.

1715

of 1983

VS.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
20-4-83	<p>in well in well</p> <p>Put up on 25th April, 1983 as prayed by Mr. Nandan, who may file rejoinder affidavit, if any, in the meantime. The interm. order shall continue till then.</p> <p>✓ in 20-4-83</p>	
25/4/83	<p>Hon. D. H. Thakur</p> <p>in well</p> <p>Sr. R. N. Trivedi is appearing in this case and the matter is urgent. Let this case be put up before a Bench, of which I am not a member, tomorrow i.e. 26.4.1983. The interm. order shall continue to remain in force.</p> <p>I agree.</p>	<p>25-4-1983</p> <p>in</p> <p>25-4-1983</p> <p>in</p>

Note of progress of proceedings and routine orders

Dated of
which
case is
adjourned

1

2

3

Hm. T. S. Menon J

Hm. D. V. Thakur J

Put up tomorrow before the Bench
Consisting of Hon Mr. Justice M. S. Srinivasan
and Hon Mr. Justice K. V. Gopal.

The interim order shall continue
to remain in force.

MOS

26. 4. 1983

27. 4. 83

Hon K. S. N. O

Hon. U. C. S. J.

~~H. K. N. Gopal J~~

The amendment application
has been allowed. The petitioner
is directed to file amended
copy of the writ petition after
serving the copy of the same
on the counsel for the opp. party.

Amended copy be filed within
one week. List this petition
for orders in the week commencing
9th May 83. Till the next
date of hearing the interim
order dated 31-3-83 shall
continue to remain in operation.

by Ks

27-4-83

27. 4. 83

Registered Affidavit

Dr. S. S. Srinivasan
Dr. K. V. Gopal
Dr. M. S. Srinivasan

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ORDER SHEET
IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No.

1715

of 198

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vs.

	Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
	1	2	3
	9/5/83	13-5-83 fixed with case 3828 (13/5/83) for order Bench	
	13-5-83	Fixed with CMA 3828-83 for order H. Gargola. H. Shukla.	By court A B
		Petitioner's counsel prays for and is allowed one week's time to amend the petition. However, the earlier interim order is vacated.	
		13-5-83 R	MB