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Court No. 1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH AT LUCKNOW.

Registration (C.A.) No. 131 of 1988

Rajendra Kumar Saxena Applicant.
Versus
Union of India & another Respondents.

Hon'ble K.S. Puttaswamy, V.C.
Hon'ble Ajay Johri, A.M.

(Delivered by Hon. K.S. Puttaswamy, V.C.)

This is an application made by the applicant under Section 19 of the Administrative Tribunals Act, 1985 (Act).

2. When the applicant joined service in the Northern Railway as early as on 14.9.1953, he appears to have given his date of birth as 14.9.1930. On that basis, an entry was made in the appropriate column of the Service Register of the applicant, which was opened then, stating his date of birth as 14.9.1930. Ever since his appointment on 14.9.1953 till 27.1.1988, the applicant did not take exception to the entry found in his Service Register on his date of birth and continued to work in the Railways on that basis only. But as late as on 28.1.1988 the applicant made an application to the Divisional Railway Manager (DRM), Northern Railway, Lucknow, for altering his date of birth from 14.9.1930 to 10.12.1930 and the DRM not making a positive order on the same the applicant has approached this Tribunal on 23.9.1988 for appropriate directions.

3. The respondents have filed their reply and have produced the records.

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4. Sri B. Soleman, learned counsel for the applicant strenuously contends that the application made by his client on 28.1.1988 for rectification of his date of birth from 14.9.1930 to 10.12.1930 was required to be considered and decided by the competent authority one way or the other and since that had not been done, it is proper for this Tribunal to direct DRM to examine and decide the same one way or the other. In support of his contention Sri Soleman strongly placed reliance on the ruling of the Hon'ble Supreme Court in State of Orissa v. Dr. (Mrs.) Bina Pani (AIR 1967 S.C. 1269).

5. Sri A. Bhargava, learned counsel for the respondents, contends that the application made by the applicant for rectification of his date of birth was hopelessly belated and this Tribunal should decline to exercise its jurisdiction and powers in favour of the applicant.

6. We have earlier noticed that the applicant joined service as early as on 14.9.1953 and from that date till 27.1.1988, i.e. for very nearly 35 years, the applicant did not raise his little finger on the date of birth entered in his Service Register. The very first application made by the applicant for rectification of his date of birth was only on 28.1.1988. Without any doubt this application, made by the applicant, was hopelessly belated and did not deserve any serious consideration.

7. Sri Soleman is right that that application should have been decided one way or the other by DRM.

8. We are of the view that on the ground of belatedness itself, DRM should have rejected the application and informed the same to the applicant without any loss of time. But that failure cannot be a ground for us to unnecessarily direct the authority to deal with that

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application and pass an order.

9. We also find that the application made by the applicant for rectification of his date of birth is as vague as it could be. On this also the application made by the applicant calls for rejection.

10. We are also of the view that the documents made available by the applicant for rectification of his date of birth are not of that value on which we can place reliance and uphold his claim for rectification of his date of birth.

11. In Bina Pani's case Government had altered the date of birth of a Civil Servant to her prejudice without notice to her. But that is not the position in the present case. Hence the ratio in Bina Pani's case does not bear on the point.

12. On any view of the matter this application is liable to be dismissed. We, therefore, dismiss the application. But in the circumstances of the case, we direct the parties to bear their own costs.


MEMBER (A).


VICE CHAIRMAN. 7/9/88

Dated: October 7, 1988.

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