

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No.692/87.

Shri Bhola Ukad,
Ramjibhai Jasla Chawl,
Dattapada Dongri,
Near Municipal School,
Borivali (East),
Bombay - 400 092.

... Applicant

V/s.

1. Union of India,
Ministry of Railway,
Rail Bhavan,
New Delhi.
2. The General Manager,
Western Railway,
Churchgate,
Bombay - 20.
3. The Senior Divisional
Electrical Engineer,
Chief Traction Foreman Office,
Sub Station Construction,
Western Railway,
Bombay Central,
Bombay.

... Respondents.

Coram: Hon'ble Vice-Chairman, Shri B.C.Gadgil,
Hon'ble Member(A), Shri J.G.Rajadhyaksha.

Appearances:

Mr.B.C.Shah, advocate
for the applicant and
Mr.Ansari, Law Assistant
for the Respondents.

JUDGMENT:

(Per Shri B.C.Gadgil, Vice-Chairman) Dated: 18.11.1987

The applicant was a Railway employee. His employment was terminated on 17th June, 1986 on the ground that he was due for superannuation on 11.9.1985 and that by mistake that superannuation had remained to be done. The applicant's contention is that his birth date was 11.9.1937 and that he is entitled to continue in service till 11.9.1995. Thus the dispute in this application is as to which is the correct birth date of the applicant, whether ^{it is} 11.9.1927 or 11.9.1937. The matter was heard for admission by ^a Single

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Member Mr. Mujumdar and on hearing the applicant, he directed that it be placed before the Division Bench. It is in this way that we heard the applicant's advocate about ~~the~~ admission of the matter on 12.11.1987.

2. In our opinion, the matter does not deserve to be admitted for the reasons mentioned hereafter. The applicant joined service on 1.4.1954. His service record shows that on the date of his appointment he was about 26 years of age. Column No. 9 of the Service Sheet gives the birth date as 11th September, 1927. However, the figure '2' is changed to figure '3' ^{by overwriting}. He was medically examined on 11.9.1959 and ^{the medical officer} Doctor found the age of the applicant ^{to be} ~~as~~ 32 years. On that very day the applicant has given a statement that he is not able to produce any documentary evidence about his age and that he agrees to abide by the decision about his age given by the Medical Officer. All these records were shown to us during the course of the arguments.

3. Mr. Shah for the applicant however contended that this record should not be accepted in the face of an affidavit filed by Venki w/o Vesta Jivla the Aunt of the applicant, wherein she has stated that the applicant was born on 11.9.1937. It is material to note that the said Venki is an illiterate woman and it would be very difficult to assume that such ^{an} illiterate woman would be able to remember the exact birth date of her nephew. Mr. Shah then relied upon the leave account maintained by the Railways in 1984, wherein the birth date of the applicant has been shown as 11.9.1937. However, the sheets of such leave accounts from 1965 onwards till 1983 did not mention the birth date at all. It is only in the sheet for the 1984 leave account that the birth date is so mentioned. In this background

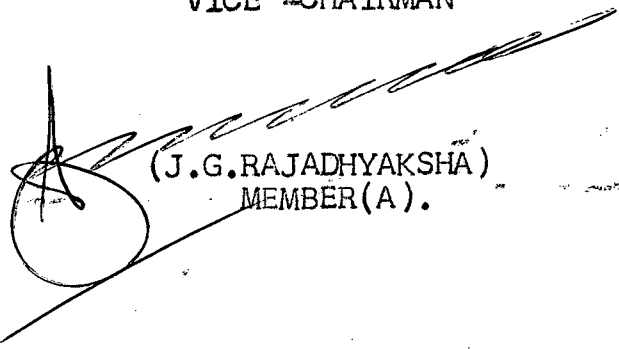
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and more particularly, when we see that in the service sheet the figure '2' has been altered to figure '3' by someone we feel that it will be risky to place more reliance on this leave account than the service sheet and the statement given by the applicant that ^{he} would abide by the ascertainment of the age by the Doctor. In view of these circumstances we are of the opinion that there is no merit in the application. Hence the application is summarily dismissed with no order as to costs.



(B.C.GADGIL)
VICE -CHAIRMAN



(J.G.RAJADHYAKSHA)
MEMBER(A).