

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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NEW BOMBAY BENCH

~~XXXXXX~~

198

T.A. No. 122/87

DATE OF DECISION 9/2/1988Shankar Savlaram More.

Petitioner

Shri D.V. Gangal

Advocate for the Petitioner(s)

Versus

Union of India. & OTHERS.

Respondent

Shri D.S. Chopra

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.B. MUJUMDAR, MEMBER(J).

The Hon'ble Mr.

1. Whether <sup>3</sup>Reporters of local papers may be allowed to see the Judgement? X
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY

Tr. Application No. 122/87

Shankar Savlaram More,  
C/o. V.S. More,  
B.I.T. Chawl No. 2,  
3rd Floor, Room No. 185,  
Motishaha Lane, Mazgaon,  
Bombay - 400 010.

... Applicant  
(Original Petitioner)

V/s.

1. Union of India.
2. District Controller of  
Stores (General),  
Central Railway,  
Curry Road,  
Bombay - 400 013.
3. Chief Personnel Officer,  
Central Railway,  
Central Railway Headquarters  
Building,  
Bombay - 400 001.

... Respondents.

Coram: Hon'ble Member(J) Shri M.B. Mujumdar.

Appearances:

1. Shri D.V. Gangal  
Advocate for the  
Applicant.
2. Shri D.S. Chopra,  
Advocate for the  
Respondents.

ORAL JUDGMENT

Date: 9-2-1988

The applicant's Writ Petition No. 1203/85 filed in the High Court of Judicature at Bombay for changing his birth date, is transferred to this Tribunal under Section 29 of the Administrative Tribunals Act, 1985.

2. The relevant facts for the purpose of this judgment are these: On 7/7/1958 the applicant was appointed as a Clerk in the Office of the District Controller of Stores (General) of the Central Railway at Bombay. In due course he was promoted to higher posts and

now he is working as Office Superintendent in the same office. In the Service Book of the applicant his birth date <sup>was</sup> is noted as 3-2-1932. In 1983 when he applied for a Clas II post he mentioned his birth date as 3-2-1935. Clarification was asked from him as to why he had given that birth date when the birth date recorded in the Service Book was 3-2-1932. The applicant explained the position in his reply dtd. 20th of January, 1984. But as no action was taken on that he made a representation on 20th of February, 1984 for changing his birth date from 3-2-1932 to 3-2-1985. Along with that representation he had produced copies of School Leaving Certificate and certificate issued by the Secondary School Examination Board showing that his birth date was 3-2-1935. However, by letter dtd. 4-2-1984 his request was rejected by pointing out that he is a literate Class III employees and he had not represented prior to 31-7-1973 which was the last prescribed date for correcting the birth dates recorded in the service book. Being aggrieved by that reply the applicant filed Writ Petition in the High Court and the same is transferred to this Tribunal.

3. The respondents have today filed their written statement resisting the prayer made by the applicant.

4. After hearing the arguments for both the sides and considering the relevant record I have no doubt that the application deserves to be allowed by directing the respondents to correct the birth date of the applicant mentioned in the service book from 3-2-1932 to 3-2-1935.

5. It is true that on the first page of the Service Book in the column regarding date of birth, the date 3-2-1932, both in figures and words, is mentioned. The applicant has stated in the application as well as before me that the entries on the first page of the Service Book including the birth date were not made by him. According to him when his signature and thumb impression were taken at the top of this page no entries therein were made, but the entries were made subsequently

by some other employee. The applicant has asserted in his application that while joining service he had produced copies of the School Leaving Certificate and the certificate issued by the SSC Board. After considering the other evidence on record I feel that the birth date mentioned on the first page of the Service Book is just a clerical mistake.

6. Mr. Gangal, the Learned Advocate for the applicant, showed me all the relevant certificates in original. The Primary School certificate issued on 7-3-1952 by the Educational Officer, Bombay shows the birth date as 3-2-1935, both in figures and words. The school leaving certificate issued by the Principal of the Union High School in Bombay also shows the same birth date, both in figures and in words. The certificate issued by the Secondary School Certificate Board on 19-7-1957 also gives the same birth date, again both in figures and in words. Lastly the applicant has produced the medical attendance Identity Card issued on 4-7-1968 and signed by the District Controller of Stores (General) showing his age as 32 years which is more consistent with his birth date being 3-2-1935. In view of this evidence I have no doubt that the actual birth date of the applicant must be 3-2-1935 and not 3-2-1932 as mentioned in the Service Book.

7. I may point out in this connection that in the statement showing the details of members of Family for the purpose of Family Pension Scheme submitted by the applicant on 19-12-1969, which is in the service record of the applicant, the applicant had given his birth date as 3-2-1935. This shows that he was under a wrong impression that the correct birth date was recorded in the service book and that seems to be the reason why he did not make a representation for correcting the birth date earlier.

8. Mr. Chopra resisted the request by relying on three seniority lists published by the respondents. The seniority list which was shown to me were of 1971, 1980 and 1981. In all these seniority lists the birth date of the applicant is given as 3-2-1932. Mr. Chopra drew my

attention to the initials against the entries regarding the name of the applicant in the seniority lists of 1980 and 1981. I asked the applicant as to whether these initials are his and he categorically stated that the initials and theremarks noted against his name are not made by him but by somebody else. Ordinarily I would not have accepted his say, but in view of the overwhelming evidence showing that his birth date as 3-2-1935 I am inclined to accept his say. Of course the fact remains that all the seniority lists showed the birth date of the applicant as 3-2-1932, but it is possible that the applicant might not have carefully seen the seniority lists but that should not come in the way of correcting the birth date ~~was~~ now.

9. In result I hold that the birth date mentioned in the Service Book of the applicant deserves to be corrected from 3-2-1932 to 3-2-1935. I therefore direct the respondents to correct the birth date of the applicant mentioned in his service book from 3-2-1932 to 3-2-1935. With this direction the application is disposed of with no orders as to costs.

  
(M.B. MUJUMDAR)  
MEMBER(J)