

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

O.A.No. - 198 -
T.A.No. 23 of 1987.

DATE OF DECISION 25.6.1987

Shri.Bhuwaneswar Jha Applicant/s.

Mr.S.C.Jha Advocate for the Applicant/s.

Versus

The Union of India through Respondent/s.

The Admiral Superintendent,

Naval Dockyard, Bombay-1

Mr.M.I.Sethna Advocate for the Respondent(s).

CORAM:

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

1. Whether Reporters of local newspapers may be allowed to see the Judgment? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether to be circulated to all Benches? Yes

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH.

Tr.Application No.23/87.

Shri.Bhuwaneswar Jha,
S/6, Dockyard Colony,
Bhandup,
Bombay-400 078.

Applicant
(Original Plaintiff)

V/s

The Union of India,
Through the Admiral Superintendent,
Naval Dockyard,
Bombay-400 001.

Respondents
(Original Defendants)

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

Appearances

1. Mr.S.C.Jha, Advocate
for the applicant.
2. Mr.M.I.Sethna, Counsel
for the Respondents.

ORAL JUDGEMENT
(Per Vice-chairman Shri B.C.Gadgil)

Dated: 25.6.1987.

Suit No.539/1981 on the file of City Civil Court
at Bombay is transferred to this Tribunal for a decision.

The matter is a very short one and it pertains
to the correct birth date of the applicant (Original
Plaintiff).

The applicant joined in the service of Naval
Dockyard as Fire Supervisor in 1948. His case is that
at that time he was 19 years of age, as his birth date
was 9-1-1929. His grievance is that though he was 19
years of age at the time of appointment, the entry in
the service record showed him as being 25 years of age
and subsequently the applicant's birth date has been
mentioned in the records as 2-1-1923. Therefore, the
applicant applied to the authority concerned for correc-
ting his service record as regards birth date to make

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it as 9-1-1929. That request was rejected. He filed the suit in question for appropriate declaration.

During the pendency of the suit, the City Civil Court granted an ad interim injunction whereunder the Respondents were restrained from retiring the applicant on the basis of birth date being 2.1.1923. It appears that though the Defendants have filed written statement in the suit, the question of vacating or confirming the said injunction order was not brought up before the City Civil Court and consequently the injunction continued to be operative. The applicant thus retired on 31-1-1987 on the basis of his birth date being 9-1-1929.

The Respondents have filed written statement contending that the birth date as mentioned in the service record as 2-1-1923 was correct. It was also contended that the applicant has not approached the authority in good time for correcting his birth date.

We have heard Mr.Jha learned advocate for applicant(Original Plaintiff) and Mr.M.I.Sethna, learned counsel for the Respondents. Mr.Jha has produced a true copy of a School Leaving Certificate issued by Loke Nath High School, Jagdishpur, Bihar on 27.3.1964. It was mentioned therein that the applicant has left the School on 31-8-46 when he was reading in the Xth standard. As far as the birth date is concerned, it mentioned the birth date as 9-1-1929. Mr.Jha relied upon this School Leaving Certificate for the purpose of contending that the applicant was born on 9-1-1929.

It was contended by Mr.M.I.Sethna that the School Leaving Certificate would not be a good piece

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of evidence about birth date. However, that aspect need not be considered in view of the following circumstances.

In the service record, the applicant's educational qualification was shown as having passed the ~~Vth~~^{10th} Standard Examination. In 1975, an occasion arose for sending Fire Supervisors for further training for the post of Senior Fire Supervisor. The department found that the applicant was not eligible as he had passed the Vth Standard Examination only. The applicant contended before the Department that he had studied up to Xth Std. and for proving it he produced the certificate from the above mentioned school. The department accepted that School Leaving Certificate and held that the applicant was eligible for training as Senior Fire Supervisor for which the minimum educational qualification prescribed was IXth Standard. Thus, the department accepted this School Leaving Certificate so far as the educational qualification is concerned.

Having done so, it will be idle for the department to contend that the said certificate is valueless as evidence so far as the birth date of the applicant is concerned. In these peculiar circumstances, we think that it will be in the fitness of things to accept the contention of the applicant that he was born on 9-1-1929.

The application thus succeeds. The Service Record is directed to be corrected by mentioning the applicant's birth date as 9-1-1929. The applicant has already worked up to the age of 58 years on the basis of this birth date. Hence, no order is necessary about service and emoluments. However, we direct that the

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applicant's pensionary benefits should be determined on the basis that he has retired on superannuation after attaining 58 years of age on 31-1-1987.

The parties to bear their own costs.

B.C.Gadgil

(B.C.GADGIL)
Vice-Chairman

(J.C.RajadhyaKsha)
(J.C.RAJADHYAKSHA)
Member(A)