

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~NEW DELHI~~
NEW BOMBAY BENCH

~~Q.A. No.~~
T.A. No. 298/87

198

DATE OF DECISION 23.2.1988

Mr. N. S. Sawarkar Petitioner

Mr. Sudame Advocate for the Petitioner(s)

Versus

Union of India through the Director
Postal Services, Nagpur and another Respondents

Mr. P. M. Pradhan Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. B. C. Gadgil, Vice Chairman

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? - 73
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400 614

TR 2A.NO. 298/87

Mr.Narayan alias Sahadeo Sampat Sawarkar
At Post - Shendurjan,
Via - Sakharkherda,
Distt. - Buldana.

Applicant

V/S.

Union of India
through
The Director Postal Services,
Nagpur.

2. The Superintendent of
Post Offices, Buldana Division,
Buldana.

Respondents

CORAM : Hon'ble Vice Chairman B C Gadgil

Appearance :

Mr.Sudame
Advocate
for the Applicant

Mr.P.M.Pradhan
Advocate
for the Respondents

ORAL JUDGMENT

Dated: 23.2.1988

(PER: B.C.Gadgil, Vice Chairman)

Writ Petition No. 507/84 of the file of the High Court of Judicature at Bombay, Nagpur Bench is transferred to this Tribunal for decision.

2. The dispute is about an exact date of birth of the applicant. The applicant joined service initially as Extra Departmental Agent sometime before 1966. Thereafter he was appointed as postman on 21.7.1966. In the service record his birth date has been shown as 1.7.1926. The applicant's contention is that an error had cropped up while recording birth date as his correct birth date is

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6.3.1931. He, therefore, made an application on 25.1.1982 for correction. That application was rejected on 22.6.1983, hence he filed the Writ Petition in question for appropriate relief that his correct birth date is 6.3.1931. He has contended that in the Birth and Death Register, there is an entry about his birth showing that he was born on 6.3.1931. He has also produced his own affidavit stating that he was known by two names, namely, Narayan as also Sahadeo and the birth extract in which the name of the newly born son is shown as Sahadeo really pertains to his own birth.

3. The respondents resisted the application by filing the reply in the High Court. They denied that the applicant has two names, namely, Narayan and Sahadeo. According to them the service record shows he was all the while known as Narayan. They also contended that it was necessary for the applicant to produce some record from the village that no son was born to his father on 1.7.1926. These are some of the circumstances on which the respondents relied for the purpose of contending that the birth date of the applicant is 1.7.1926 and not 6.3.1931.

4. I have heard Mr.Sudame for the applicant and Mr.Pradhan for the respondents. Mr.Sudame contended that the department has rejected the application on the basis of certain instructions that a correction of date of birth can be made only within 5 years from the entry in service. He argued that this Circular would not have any legal force. I, however, do not intend to consider this aspect, as it would be in the interest of parties if I decide the case on merits after taking into account ..3/-

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the evidence that has been led before me.

5. The only evidence on which the applicant relied is extract of Birth and Death Register. In addition there is an affidavit of the applicant. It is true that the applicant contends that the said extract pertain to his birth. However, what is important to note is that in that extract the name of the son that was born to Sampat Ganpat is mentioned as Sahadeo. When the applicant joined school for his education, his name was entered as Narayan Sampat Sawarkar. The school Leaving Certificate that was shown to me during the course of hearing shows birth date of the applicant as 1.7.1926. The service record is also shown to me by Mr. Pradhan. Suffice is to say that the name of the applicant is Narayan and it is not mentioned that he was known as Sahadeo. The service record was prepared in 1967 showing the birth date of the applicant as 1.7.1926, the applicant has signed it. Not only that there were periodical verifications in 1977 and 1972. In those years the applicant has signed the service record suggesting that the entries are correct. I am also shown the Gradation Lists for the years 1977, 1978, 1979 and 1981. The birth date of the applicant is shown as 1.7.1926 in all the lists. In addition, a copy of the Police Verification Form that was signed by the applicant was shown to me, It also gives the date of birth of the applicant as 1.7.1926. This form has another important bearing in as much as the applicant has given the name of his father as Sampat Bhagwan. This Bhagwan was his grandfather. As against that the birth extract mentions the name of the grandfather as Ganpat. It is true that during the course of arguments the applicant has stated that his grandfather was also known by two names, namely,

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Bhagwan and Ganpat. However, I am not able to accept the statement of the applicant in that respect.

6. Thus, all the above mentioned circumstances indicate that the birth date has been correctly mentioned as 1.7.1926. A copy of the birth extract that is produced is not free from doubt. At any rate, the evidence offered by the applicant will not be sufficient to outweigh the evidence arising from the above mentioned circumstances. Coupled with this one cannot forget that the applicant has not produced any thing to show that no son was born to Sampat Bhagwan on 1.7.1926. Lastly, it will not be out of place to mention that the applicant has made the application to the Department after about 16 or 17 years from entering the service and just two years before his retirement.

7. In view of the discussion mentioned above, I do not think that the applicant can successfully claim that his birth date is 6.3.1931. The application therefore is dismissed. There would however be no orders as to costs.

The record that was shown to me in the course of argument has been returned to Mr.N.L.Naik, Superintendent of Post Offices, Buldhana.



(B.C. Gadgil)
Vice Chairman