

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW ~~XXXXXXXXXX~~ BOMBAY

O.A. No. 428/87

198

~~XXXXXXXXXX~~DATE OF DECISION 9-11-1987Smt. Rajamma Reddy, Kalyan.

Petitioner

Mr. D.V. Gangal

Advocate for the Petitioner(s)

Versus

Union of India through the G.M. & Rly., Respondent
Bombay V.T.Mr. R.K. Shetty

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. J.G. RAJADHYAKSHA, Member(A)

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

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
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? Yes No

6

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A. No.: 428/87

Smt. Rajamma Reddy,
Bhagre Niwas,
Room No.4,
Rambaugh Lane No.6,
Murbad Road
(Near Raj Mahal Hotel),
KALYAN.

.... Applicant

Vs.

1. Union of India
through
The General Manager
Central Railway,
Bombay V.T.
2. The Divisional Railway
Manager,
Central Railway,
Bombay - 400 001.

.... Respondents.

Coram: Hon'ble Member(A) J.G. Rajadhyaksha
Hon'ble Member(J) M.B. Mujumdar.

Appearances:

1. Mr.B.V. Gangal,
Advocate for the
Applicant.
2. Mr. R.K. Shetty,
Advocate for the
Respondents.

ORAL JUDGMENT

Date: 9-11-1987

(Per: M.B. Mujumdar, Member(J))

The applicant Smt. Rajamma Reddy has filed this application on 22-6-1987 challenging the birth date recorded in her service record and for correcting the same.

2. The applicant is the 7th daughter of her parents. She has no brother. Her father Pittu Reddy died in 1972 while her mother Gangamma died in 1980. The applicant was married to one Venkata Munnuswamy Reddy who was working as a Clerk with the Central Railway. He died on 18-1-1963 while in service.

Hence on compassionate grounds the applicant was appointed as Sewing Machine Operator on 5-2-1964. In the service book her birth date was recorded as 15-6-1929. It is not mentioned in the Service Book as to on what basis that birth date was recorded. However, there is a medical certificate dtd. 15-6-1964 in the service record which shows that she was examined by a Medical Officer on that date. The certificate shows that the Medical Officer found the applicant fit for appointment in "C-I" category. In that certificate her age was given as 35 years. It is probably on this basis that her birth date was noted as 15-6-1929 by deducting 35 years from 15-6-1964.

3. The applicant did not challenge the above birth date for about 21 years after she joined service. However, on 5-8-1985, for the first time she made an application stating that the certificate which she had produced previously was wrongly written by the Gram Panchayat regarding the year of her birth. She claimed that according to her horoscope and enquiry with the Mandal Revenue Officer, Gudipala, her correct birth date was 15-6-1932. Hence she requested for correcting her birth date in the service record. The authorities informed the applicant to produce school leaving certificate showing her birth date as she had studied upto VIth Standard, for the purpose of dealing with her request. The applicant never produced a school leaving certificate issued by the school in which she had studied at her native place. However, after some period she produced a letter dtd. 21-2-1987 apparently issued by the Head Master of the School stating that it was not possible to send the school leaving certificate as the record in the school was not available. She, however, produced a

certificate issued by the Sarpanch, Bommasamudram Gram Panchayat, showing that she was born on 15-6-1932. She also produced a certificate issued by the Mandal Revenue Officer of Gudipala certifying on the basis of the local enquiry and photostat copy of horoscope produced by the applicant that her birth date was 15-6-1932. Not relying on these certificates the respondents asked her to retire by the end of June, 1987. She therefore filed this application praying that her birth date mentioned in her service record should be corrected from 15-6-1929 to 15-6-1932. She had also requested for an interim relief and on the basis of the certificates produced by her we had directed the respondents not to retire her till the disposal of this application.

4. The respondents have filed their reply on 9-10-1987. According to them they had sent one R.M. Budharap, Head Clerk, to the native place of the applicant for enquiring about her birth date. He has reported, on the basis of the documents seen by him and the enquiry made by him, that the applicant's correct birth date according to the school ~~record was~~ ^{was} neither 15-6-1929 nor 15-6-1932 but it is 18-6-1926. The respondents have produced a copy of the report of Budharap along with documents obtained by him from the concerned authorities. The respondents therefore requested that we should vacate the interim order passed by us. However, instead of deciding the question of interim relief we have heard the advocates for both the sides at length and with their consent we are deciding the application on merits.

5. In order to show that the correct birth date of the applicant is 15-6-1932 she has relied on five documents, viz.,
(i) Certificate issued by the Sarpanch of the Bommasamudram Gram

9

-: 4 :-

Panchayat dtd. 17-3-1984 , (ii) Certificate issued by the same Sarpanch on 21-7-1987 , (iii) Certificate issued by the Mandal Revenue Officer on 21-6-1987 , (iv) Ration Card issued in 1973, and (v) Voters list prepared in 1977.

6. Certificate of the Sarpanch dtd. 17-3-1984 states that it was issued on the information from the family records of the applicant while the certificate issued by the Sarpanch on 21-7-1987 shows ~~that~~ it was issued on the basis of record of the Mandal Revenue Officer, Gudipala. Both the certificates mention 15-6-1932 as the birth date of the applicant. It is very clear that these certificates were not issued on the basis of any record from the birth and death register as such. The respondents have produced a copy of the letter from the Mandal Revenue Officer stating that the birth register for the year 1932 is not available. Hence the certificates of the Sarpanch dtd. 21-7-1987 showing that the birth date of the applicant is 15-6-1932 and that it was issued on the basis of the Mandal Revenue Officer's record cannot be accepted as correct. What is more important is the letter of the Sarpanch of Bommasamudram dtd. 22-7-1987. The letter shows that the applicant had approached him twice for a certificate showing her birth date as 15-6-1932 on the basis of the Mandal Revenue Officer's Certificate. As there was no record available with the Mandal Revenue Office, this certificate cannot be relied upon and hence the certificate issued by the Sarpanch on the basis of that certificate also cannot be relied upon.

7. The record shows that the applicant was repeatedly asked by the respondents to produce a school leaving certificate from the school in which she had studied. Instead of producing a certificate from the school she produced a letter purporting

to have been written by the Headmaster of the M.P.P.E. School at Bommasamudram stating that the certificate regarding birth cannot be given as the record was not available in the school. The respondents have produced a letter from the Headmaster of the same school along with their written statement. The name of the Headmaster is Venkatamuni Reddy. In his letter the Headmaster has categorically stated after seeing the photostat copy of the letter dtd. 21-2-1987 that the signature on it is not his and the school stamp below the signature is also not of his school. In other words according to him the letter dtd. 21-2-1987 is a forged and bogus one. Apart from this, it is important to note that the Headmaster has stated in his letter that the applicant had approached him and requested him to alter the birth date in the school register by some years and issue a certificate recording her altered birth date. But he "bluntly refused to do so and warned her not to ask him to do such mischief again".

8. Not only this but the Headmaster has given a copy of the relevant extract from the school register. The extract is in Telugu. It was read over to us by Mr. Shetty, the learned advocate for the respondents. In that extract the name of the applicant is at Sr. 76 and her birth date is recorded as 18-6-1926 and the date of admission as 1-9-1932. Probably, this is the reason why the applicant avoided to produce the school leaving certificate though she was repeatedly asked to do so by the respondents. This must also be the reason why she had requested the Headmaster to alter the birth date by some years. It is on the basis of this school record that the respondents have submitted that the correct birth date of the applicant is 18-6-1926. It is needless for us to investigate as to whether the applicant's real birth date is 15-6-1926 because on the basis of that birth date she would have retired long back by the end of June, 1984. What we are required to consider is whether the birth date shown in the service record i.e. 15-6-1929 is incorrect and

11

whether her real birth date is 15-6-1932 as alleged by the applicant. Relying on the extract from the school register and the letter given by Headmaster of the school we are constrained to hold that the applicant's real birth cannot be 15-6-1932.

9. Then the applicant has relied on a copy of the Ration Card. The copy shows that the ration card was issued on 8-7-1973 and in that ration card the applicant's age was shown as 40 years. Obviously, that age must have been shown on the say of the applicant and hence it cannot be accepted as correct. In the Voters' list prepared in 1977 her age was shown as 35 years. This also cannot be accepted as accurate for the same reason.

10. Hence we cannot rely on the documents on which the applicant has asked us to rely for holding that her real birth date is 15-6-1932. On the contrary, the birth date recorded in the service book of the applicant after she joined service was 15-6-1929. In all probability that birth date must have been recorded on the basis of the medical certificate issued by the Medical Officer after examining her. Of course, that birth date also must be approximate. But in the absence of any ~~other~~ better evidence the respondents had to enter the same birth date in the register. The applicant did not challenge that birth ^{date} till 1985.

11. We may point out in this connection that the District Medical Officer of Central Railway, Kalyan had issued a certificate on 27-2-1981 certifying that the date of birth of the applicant as per record is 15-6-1929. It is not known for what purpose the applicant had taken this certificate, but it is clear from her signature at the bottom of the certificate ~~that~~ she must have taken this certificate for some specific purpose. What is more important is that she was aware at least when she took the ~~the~~ certificate that the birth date recorded in the service record

(12)

-: 7 :-

was 15-6-1929. She did not take any steps for correcting that birth date for more than 4 years thereafter. But when she was on the verge of retirement, she requested the authorities to correct her birth date. The authorities had repeatedly asked her to produce school leaving certificate as she has studied upto Vith Standard. Instead of producing a school leaving certificate from the school, she approached the Headmaster for altering the birth date by some years. When he refused to do so, she produced the bogus certificate purporting to have been issued by the Headmaster stating that no certificate regarding birth date can be given as the record was not available in the school. All these circumstances show to what length the applicant had gone for remaining in service for about 3 years more.

12. We may point out that the applicant in her rejoinder has denied the contents of the letters of the Headmaster and the Sarpanch of the Gram Panchayat given by Respondents after enquiry. But the written statement is filed by the respondents on affidavit and along with it they ^{have} produced a copy of the report which was made by Budharap after visiting the native place of the applicant and seeing the relevant record. We do not find any force in the say of the applicant that the letter and documents produced by the respondents alongwith the written statement are not genuine and they relate to some other lady.

13. Considering all the facts and circumstances we are inclined to dismiss this application with costs, which we quantify as Rs.500/-. The applicant has remained in service even after the due date of retirement on the basis of the interim stay order passed by this Tribunal. She must be asked to return the salary which she has received in view of our stay order. Mr. Gangal urged before us that the applicant should not be asked to return

13

-: 8 :-

the salary which she has received in view of our stay order. Mr. Gangal urged before us that the applicant should not be asked to return the salary which she has obtained for the period after 1-7-1987 because she has worked under in view of the stay order passed by this Tribunal. We are not inclined to accept this submission because we have not doubt that the applicant had obtained the stay from this Tribunal by misleading us and by producing dubious document. We, therefore pass the following order:

- (1) The application is dismissed.
- (2) The applicant shall pay Rs.500/- as costs of this case to the respondents,
- (3) The applicant shall be deemed to have retired with effect from the afternoon of 30th June, 1987.
- (4) The applicant shall refund the salary which she has received from the respondents for the period from 1-7-1987.
- (5) The respondents will be entitled to recover the amount of salary paid to the applicant for the period from 1-7-1987 and the costs of Rs.500/- from whatever amounts that are due to the applicant from them.
- (6) The interim relief order passed by this Tribunal on 24-6-1987 is vacated.
- (7) The applicant will be entitled to pension and other amounts that may be due to her on the basis that she has retired w.e.f. 30th June, 1987
A/N.

14

14. At this stage Mr. Gangal requested for stay of our order for a period of 4 weeks. We reject that request.

(J.G. RAJADHYAKSHA)
Member(A)

(M.B. MUJUMDAR)
Member(J)