

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

NEW BOMBAY BENCH

O.A. No.

93

198 8

~~XXXXXXXX~~DATE OF DECISION 17.6.1988Shri Bachan Singh PetitionerShri D.V. Gangal Advocate for the Petitioner(s)

Versus

Union of India & Others. RespondentShri M.D. Siodia Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. B.C. Gadgil

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? - Yes
2. To be referred to the Reporter or not?
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?

(7)

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

Original Application No.93/1988

Shri Bachan Singh,
28, OCS Colony,
230 Mogal Lane,
Matunga(West),
Mahim,
Bombay-400 016

.. Applicant

V/s.

1. Union of India
through Secretary,
Ministry of Communication
New Delhi.
2. General Manager,
Bombay Branch
Videsh Sanchar Nigam Limited,
Videsh Sanchar Bhavan,
3rd floor, Flora Fountain,
Bombay-400 023.

;. Respondents

Coram: Hon'ble Vice-Chairman, Shri B.C.Gadgil

Appearance:

1. Shri D.V. Gangal
Advocate
for the Applicant
2. Shri M.D. Siodia
with Shri M.R.S. Captain
Advocates of M/s. Mulla & Mulla
Solicitor
for the Respondents.

ORAL JUDGMENT:-

Dated: 17.6.1988

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

The main and the only question that arises for my decision in this application is about the correct date of birth of the applicant.

2. The applicant joined service on 13.6.1949 as a Boy Peon in the Department of Overseas Communication. A service record was prepared and his birth date was noted as 13.6.1930. The applicant's grievance is that the

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actual birth date is 6.9.1933. He has filed the present application for an appropriate declaration that his birth date is 6.9.1933.

3. The applicant has made representation dated 24.8.1974 making a grievance about the incorrectness regarding the date of his birth. That representation was rejected on 13th September, 1975 vide Annexure 'C' to the application. The applicant made another representation which was also rejected on 1.2.1978. The matter rested at that. The applicant is due to retire on 30.6.1988. He made a third representation on 2nd September, 1987 (Annexure F). That representation was rejected on 8.1.1988 (Annexure G). It is against this rejection that the applicant has filed the present application.

4. In my opinion the application ^{is} liable to be dismissed for delay and laches and also on the ground of limitation. I have already observed that the applicant's representation about the correct birth date has been rejected about 13 years back i.e., on 13.9.1975. Not only that a second representation was rejected about 10 years back. It is true that the applicant has made another representation dated 2.9.87. Mr. Gangal submits that entertaining such representation of 1987 and a fresh decision on merits thereon would give another cause of action. It is in this way that he submits that a reply dated 8.1.1988 would permit him to file the present application. He relied upon the decision of the Principal Bench of the Tribunal in the case of B. Kumar V/s, Union of India reported in ATR 1988(1) CAT 1. It was a case of dispute of seniority. There the applicant's

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representation was rejected in 1979. He made another representation to the Ministry and that representation was considered and the applicant was informed that it would not be possible to accept the representation. The wording of the communication about the rejection of the communication is as follows:

" Representations dated 8.2.85 submitted by Shri B. Kumar, Photo Artist, AFFPD have been examined at the level of Raksha Mantri. It is regretted that it is not possible to antedate Shri Kumar's seniority."

The Principal Bench has held that a further examination of the representation on its own merits would enable the applicant to move the Tribunal within the requisite time from the time of rejection of that representation. However, it is material to note that the Principal Bench has clarified the position in paragraph 13 of the judgment as follows:

" From the above, it is clear that the representations made by the applicant in February and June, 1985 had again~~be~~ been examined at the level of Raksha Mantri. This is not a case where a decision regarding rejection of the earlier representations disposed of at a lower level had merely been reiterated."

It is, therefore, necessary to find out as to what has been considered by the department while sending reply dated 8.1.1988 ~~on 8.1.1988~~ to the applicant. That reply reads as follows:

" The request for change in date of birth of Shri Bachan Singh, Foreman Fitter, Bombay Branch has been once again carefully examined but it is regretted that his request cannot be conceded. The position stated in this office letter No.33/9/1975-Est. dated 13.9.1975 still holds good."

It would thus mean that the representation was dismissed

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on 13.9.1975 and that representation of 1987 was rejected by specifically informing the applicant that the earlier decision of 13.9.1975 still holds good. In my opinion the communication of 8.1.1988 only reiterates the position as it stood in 1975. It is very difficult for me to accept the contention of Mr. Gangal that the applicant would have a fresh cause of action for filing the application on the basis of the reply dated 8.1.1988.

5. Thus the application is liable to be dismissed on the ground of delay, laches and limitations. In view of the above position I do not think it necessary to consider the question as to whether the applicant has a good case on merits for the purpose of saying that his correct birth date is 6.9.1933.

O R D E R

The result is that the application fails and is dismissed. There would however be no order as to costs.

B. C. Gadgil

(B.C. Gadgil)
Vice-Chairman