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

Original Application No.106/88.

Shri Shrinath Prabhunath Divedi,
Pocket Wala Chawl,
Chawl No.573, Room No.53,
Station Road, Kurla,
BOMBAY - 400 070.

.. Applicant.

V/s.

1. Union of India, through
The General Manager,
Central Railway,
Bombay V.T.
2. The Chief Workshop Manager,
Central Railway Carage and
Wagon Workshop,
Matunga.

.. Respondents.

Coram : Hon'ble Member (A) Shri M.Y. Priolkar
Hon'ble Member (J) Shri T.C. Reddy.

ORAL JUDGMENT

DATED: 11.7.1991.

¶ PER : Hon'ble Shri M.Y. Priolkar, Member (A) ¶

The grievance of the applicant in this case is that his date of birth has been recorded in the Service Book as 5.2.1930, whereas his correct date of birth is 1.7.1932 on the basis of the School Leaving Certificate. According to the applicant the date of birth was recorded when the applicant entered the service as a Fitter under the Inspector of Works, Central Railway, Byculla in October, 1953 without producing any documentary proof of date of birth.

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According to the respondents the date of birth as recorded was entered in the service book when the applicant was medically examined.

2. The application can be decided on the short point whether the applicant's representation for correction of his date of birth on the basis of a clerical error could have been rejected as has been done in this case by one Mr. Deharia signing for Additional Chief Mechanical Engineer, Matunga. Mr. Deharia is stated to have been a Senior Personnel Officer at the relevant time. The learned counsel for the applicant argued that under Rule 225(4) of the Indian Railway Establishment Code Vol. I provides that "the date of birth as recorded in accordance with these rules shall be held to be binding and no alteration of such date shall ordinarily be permitted subsequently. It shall, however, be open to the President in the case of a Group 'A' and 'B' railway servant, and a General Manager in the case of a Group 'C' and 'D' railway servant to cause the date of birth to be altered in certain cases."

3. Admittedly, the applicant's representation for the change of date of birth has not been considered at all by the General Manager and has been rejected by a much lower authority. Evidently, this is in contravention of Rule 225(4) of the IREC cited above. The learned counsel for the respondents also could not explain whether any lower Officers had been delegated the power to deal with such representations although, according to him, it appears that the Chief Personnel Officer of the Railways has now been delegated

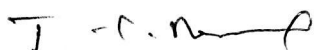



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this power. In this case, however, the application has been decided not even by the Chief Personnel Officer but a still lower officer and in any case, no document have been shown to us under which any power of dealing with such representation has been validly delegated to any authority other than the General Manager.

4. In view of the above, this application has to be allowed on this short point. We accordingly quash and set aside the order dated 20.9.1985 (Annexure 'B') rejecting the applicant's request for alteration in the recorded date of birth and direct that the applicant's representation dt. 10.8.1985 (Annexure 'A') for correction of his date of birth may now be considered and decided by the Competent authority within two months from the date of receipt of a copy of this order, after taking into account the circumstances mentioned in the representation and also the points raised in this application before us, in accordance with the rules. In view of this direction we do not wish to express any opinion on any other issues raised on behalf of the applicant in this application. The application is disposed of finally with the above direction, with no order as to costs.


(T.C. REDDY)
MEMBER(J).


(M.Y. PRIOLKAR)
MEMBER(A).