

(19)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No.
T.A. No. 28

1988

DATE OF DECISION 18-11-91

B. A. Mardane Petitioner

Mr. N. A. Jadhav Advocate for the Petitioner(s)

Versus

G. O. I. Officer Respondent

Mr. V. C. Page Advocate for the Respondent(s)

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By Hon. Mr. Justice V. C. Srivastava V. C.

The Hon'ble Mr. Justice V. C. Srivastava V. C.

The Hon'ble Mr. M. Y. Pralhad, A.M.

1. Whether Reporters of local papers may be allowed to see the Judgement ? ☒
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 ? ☒



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, BOMBAY BENCH
CIRCUIT BENCH : NAGPUR

Registration T.A.No. 28 of 1988

Bisambar Amarnath Mardane	Applicant
	Vs.	
Union of India & Others	Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. M. Y. Pralokher, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant who entered in the service in South Central Railway on 27.2.1950 as Safiawala (Class-IV) On 4.2.1983 he received a telegram that he is to retire with effect from 28.2.83 and was asked not the report on duty from 1.3.83. In the telegram the date of birth of the applicant mentioned as 27.2.1925. According to the applicant his date of birth was not correctly mentioned and he raised a dispute regarding the date of birth and regarding retirement, and stated that the age of retirement was not 58 years but was 60 years. No enquiry was held and the applicant was retired from service. According to the applicant although he was born in the year 1925 but his date of birth is 15.12.1925 and not 25.2.1925 which was mentioned in the telegram. The applicant made several representations against the same but ultimately he gave a notice on 19.3.1984 Thereafter he filed a Civil Suit in the Court of Civil Judge, Akola, and by operation of law this suit has been transferred to this Tribunal.

2. Before the authority it appears that the applicant did not filed any documents, but before the Civil Court he filed some Horoscope, Municipal Birth Certificate, representations and notice, and praying that his date of birth may be corrected as 15.12.1985

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and he may be allowed to retire at the age of 60 years.

3. The applicant who had been appearing in person from the last two days, but preferred not to appear today. As such there is no option but to decide the case on merits after going through the pleadings. One of the document filed by him is a letter which was sent to the Secretary, Central Railway Mazdoor Sangh, in which the applicant applied for the loan, and in this letter his date of birth is recorded as 15.12.85. The applicant also filed a character certified issued by someone and the certificate issued by the President of Municipal Board though not extract from Birth & Death Register, and one copy of Horoscope.

3. The respondents in the Written Statement have pointed out that the applicant was illiterate person and he gave his age as 25 years. In accordance with the provision of Rule 225 of the Indian Railway Establishment Code his date of birth was recorded as 27.2.1925. He having been appointed on 27.2.1950, and since then the applicant never disputed the age in any manner whatsoever. Although he has an option for doing the same earlier, and when he exercised the option for the revised pay scale with effect from 1.1.1973, and executed a document on 7.1.1974 which has been signed by him in Devanagari script. Thereafter he made an application on 14th February, 1983 in which he stated that his date of birth is 15.12.1925 and not 27.2.25 which was signed by him in English. Thereby the respondents have said that during this period although he got himself educated, but he never moved any application for correction of the age which was not correct recorded according to the applicant.

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3. When the applicant was entered into the service he was illiterate person and obviously he gave his age approximately 25 years, and in accordance with rule his date of birth was recorded. The respondents have not stated anywhere that during this period he get any information that his date of birth was recorded as 27.12.1985. Although no ~~ground whatsoever~~ pointed out by the applicant from which it could be said that the age of 60 years and it has been rightly stated in the counter affidavit that the age of retirement of class-IV employee also is 58 years. But the question let begin at the applicant raised a plea on the work retirement, and when he got a information that he was retiring on a particular date at least an opportunity of hearing should have been given to the applicant. But no opportunity was given to the applicant. Accordingly we allowed this application partly and we direct the respondents to hold the enquiry associating the applicant within and finished this within a period of 6 months from the date of enquiry is started, and in case they come to the conclusion that the applicant date of birth was incorrectly recorded then the date of birth may be corrected and the benefit of the same may be given to the applicant, otherwise this application will be deemed to have been dismissed. No order as to costs.


Member (A)


Vice-Chairman.

18th November, 1991, Nagpur.

(sph)