

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

Original Application No. 35/86

Mr. Digambar Waman Rokade
1047 Riviwar Path
Pune 411002

... Applicant

v/s.

1. The Union of India, through
The Secretary, Ministry of
Defence, New Delhi

2. Commandant
Central Armed Forces
Vehicle Depot (CAFVD)
Kirkee, Pune 411003

... Opponents

Coram : Vice Chairman B.C. Gadgil
Member (A) J.G. Rajadhyaksha

Appearance:

1. Mr. H.U. Petkar for
Shri V.B. Raikar,
Advocate for the
Applicant.
2. Shri M.I. Sethna,
Advocate for the
opponent

JUDGMENT

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

Dated: 30.1.1987

1. The applicant who is working as a Painter in the Central Armed Forces Vehicle Depot, Kirkee, has a grievance about the birth date as entered in the service record.

2. The applicant joined the service on 20 December 1957. At that time, while preparing the service record the birth date was mentioned as 19 March 1927, though according to him the correct birth date is 19th March 1929. He contends that he came to know about this mistake in the service record when he signed the service book. He made an application for correction of the birth date on 30.11.85 and that application was rejected.

He has, therefore, approached the Tribunal with a prayer that his birth date be recorded as 19th March, 1929, so that he could superannuate at the end of March 1989 at the age of 60 years.

3. The respondents have resisted the application.

It is alleged that the birth date was recorded as 19.3.27 at the instance of the applicant on 20.12.1959. A fresh service book was prepared. At that time also the date of birth was entered as 19.3.1927 under the signature of the applicant. Not only that but the applicant has signed the service record on 18.4.62; 20.3.71 and 12.2.73 accepting his birth date as 19.3.1927. It is also contended that the application for correction of birth date is made very late, and much after the time when such correction could be requested for according to rules.

4. We have heard Mr. Petkar for the applicant and Mr. Sethna for the respondents. At our instance we had issued summons to the Municipal Corporation of Pune and also to the Agnihotri Prathamik Vidyalaya to bring the concerned birth and school registration record of the applicant respectively. This was done as the applicant had produced a certified copies from the records of these two organisations. On 27.01.1987 both the witnesses were present. Mr. M.G. Kudale is the Registrar of Births and Deaths from the Pune Municipal Corporation. He has brought the original register in which there is an entry dated 10.2.1986 showing that the applicant was born on 19.3.1929. This entry has been made on the basis of an order of Judicial Magistrate dated 7.1.1986 on the affidavit of applicant. Obviously the said record will not be of any use as it appears the applicant has approached the Magistrate only after making an application to the Department for correction of the date of birth.

5. Mrs. Suman Deshpande, Headmistress of the Agnihotri Prathamik Vidyalaya, which is a Government aided Private School, was present. There is an entry in the school register at serial No. 499 showing that the one DINKAR WAMAN ROKADE was admitted to the school in 1937 and at that time the birth date of the student was mentioned as 19.3.1929. Mr. Petkar laid much reliance upon this school register showing the birth date as 19.3.1929.

6. Mr. Sethna for the respondents contended that the said school register cannot be relied upon in the face of various other circumstances. He drew our attention to the fact that the applicant entered the Government service by giving his name as D.W. Lokare. The concerned service record has been produced before us for perusal. It appears that the applicant changed his name from Lokare to Rokade and this change has been notified in the Government Gazette ON 3.3.1977. However, the applicant did not get the said surname changed in the service record. It was said that this inaction on the part of the applicant is relevant. Till 1985 the applicant did not try to communicate the school register entry with him. No doubt this is a circumstance which has got to be considered. However, we do not intend to lay much stress on it. This is more so, when the matter can be decided on the basis of the service record which was shown to us during the proceedings. We already observed that the respondent's contention that the birth has been entered in the record as 19.3.1927. Not only that the said date has been signed by him, but also when a fresh service book was prepared on 20.12.1959 he has signed the service book. In addition the applicant has put his signature

in the service records in 1968, 1971 and 1973 accepting his birth date as 19.3.1927. When the office started preparing the pension papers, then also the applicant has signed the papers mentioning birth date as 19.3.1927. It is material to note that the applicant has put his signature in English, Hence it would be very difficult to accept the contention that the applicant is an illiterate person.

7. Thus in the service record consistently given is the date of birth as 19.3.1927. As against this there is the school register showing the birth date as 19.3.1929 against the student, whose surname has been mentioned as Rokade. However, the applicant has entered the service with the surname as Lokare. In our opinion it will not be possible to rely upon the school record particularly when the applicant during his service all the while maintained and ascertained that his birth date is 19.3.1927.

8. It is true that there is some Government rule that the change of birth date can be applied for within a period of five years from the entry into the Government service. However, we are not deciding this application on the basis of this rule. We, on the contrary, on assessment of the evidence produced before us feel it will not be possible to accept the contention of the applicant that his birth date is 19.3.1929. We may also observe that the applicant has made a very belated claim i.e., just a couple of years when he was due to retire. Thus taking an overall view of the evidence in the circumstances the application is liable to be dismissed, without any orders.

No orders as to costs.

B.C. Gadgil
(B.C. Gadgil)

(J.G. Rajadhyaksha)