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IN THE COURT OF THE CIVIL JUDGE, SENIOR DVN. POONA.

AT : POONA.

Civil Suit No. 1666 of 1985.

Shri. Ramkhelwan Amarnath Penday,)
Aged about 55 years,)
Occupation : Service,)
Residing at Military Farm, Kirkee,) .. Plaintiff.
Poona- 411 003.)

v/s.

(1) Union of India,

Represented by the Secretary to
the Government of India,
Ministry of Defence, New Delhi.

Summons to be served on the
Secretary by R.P.A.D.

2) Deputy Director and General Defendants.

Military Farms, Branch Army
Eq.: Ramkrishna Puram,

¶ New Delhi.
summons to be served by R.P.A.D

(3) The Director of Military Farms, HQ. Southern Command, Pune-411 003.

-; Smix for Decksatz

-: Application for Ad-interim injunction :-

Plaintiff submits as under :-

(1).- The plaintiff has filed the above suit for declaration that the order H.Q. No. 280701/E/ME-2 dt.

3-7-1985 Superannuating the plaintiff from service

with effect from 30-9-1985 is illegal, violative of Army Instruction No. 200/55, (Departmental rules) in-operative and not binding upon the plaintiff and further he continues in the active employment of the Defendants.



(2).- Plaintiff was recruited to Military Farm at Pimpri in the year of 1949 and at the time of recruitment of the plaintiff in the said department the provisions regarding entering birth dates were not meticulously observed. When the plaintiff was recruited he was neither called upon to furnish documentary evidence in support of his birth date nor he was ~~as~~ called upon to make the entry of birth date in his own hand writing as required under Art-51 of the Civil Services Regulations as amended. Establishment Clerk of the defendant No. 3 erroneously entered the plaintiff's birth date as 20-9-1925 in lieu of 20-9-1930.

(3).- The plaintiff by his letter dated 9-10-1984 made a representation against the erroneous entry of his birth date in his service record and requested the same be altered. Plaintiff has produced hereto copy of the said letter marked Annexure - 1. After giving the letter to defendant No. 3 the plaintiff was waiting for reply of the said letter but no reply could be received till 25-3-1985. The plaintiff

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made representations second time in continuation of his letter -cum-application dated on 25-3-1985 and copy of the said letter dated 25-3-1985 has produced hereto marked Annexure, II. The said letter dated 25-3-1985 was submitted before defendant No. 3 alongwith plff's school leaving certificate (original copy) which is ~~au~~ ~~an~~uthenticated and verified by the educational authority of Uttar Pradesh on 11-3-1985 in support of plaintiffs age. The said school leaving certificate xerox copy has been produced hereto marked Annexure III. The defendant No. 2 informed to defendant No. 3 H.Q. No. 280701/E/M.F.-2 dated 3-7-1985 and the Officer of the Asstt. Director Military Farm, Pimpri, under the charge of the defendant No. 3 informed to the plaintiff by his office note dated 8-7-1985, that the plaintiffs date of birth recorded in service book can not be changed. The ~~fax~~ plaintiff has produced copy of the letter dated 8-7-1985 hereto Annexure IV. The plaintiff had also submitted school leaving certificate which was showing correct date of birth of the plaintiff but defendant No. 2 illegally refused to accept the same. The plaintiff says that the school leaving certificate is a conclusive proof of his birth date recorded therein. Defendants act in not accepting this evidence is against Article 51 of Civil Service Regulations and also against Ministry of defence decisions laying down general

ad-interim injunction sought for by the plaintiff is granted.

(7).- Contents of the plaint constitute an integral part of this application and be read along with this application.

(8).- It is therefore, prayed that this Hon. Court be pleased to issued an ad-interim injunction against the defendants restraining them from giving effect to the order No. 280701/E/MF-2 dated 3-7-1985 and the order of A.D.M.F. Military Farm, Pimpri, No. E-5/P.F / Ramkhilawan Amx Amarnath, dated 8-7-85 till pending hearing and final disposal of the suit.

(9).- Plaintiff is x prepared to pay Emergent process.

Affidavit is enclosed herewith.

Poona :

Dated : 4 -9-1985.


Plaintiff.

Advocate for Plaintiff.

Heard Shri. Patil & Anw.
Pursued relevant documents - on record
order

Issue Show Cause notice of the
Application to def. Reliance
by 13-9-85

L.P. allowed


Plaintiff
5/9/85

principles to be followed deciding the cases of birth date , 2nd defendant ignored the fact that there was over whelming evidence to show that the date of birth recorded in his service records was obviously incorrect.

(4).- That the 2nd defendant ignored the glaring fact that if his birth date was 20-9-925 as erroneously recorded through clarical inadvartance he could have been overage of the time of recruitment and Government orders for relaxation of ~~ge~~ ~~max~~ age were necessary plaintiff by his another representation dated 25-3-1985 requested to defendant No. 3 that his birth date be altered to 20-9-1930 on the basis of school leaving certificate which was submitted him in support of his claim. The plaintiff has submitted second application alongwith his school leaving certificate to rectify his correct birth date before defendant No.32, and defendant No.3 2 assured plaintiff that his case, for rectification of date of birth would be refered to the higher authorities . The plaintiff was under the impression all along that his case must have been referred to for approval.

(5).- By letter dated 8-7-1985 issued by 3rd defendant administrative officer (ADMF) Military farm, Pimpri, plaintiff is superannuated from service with effect.

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made representations second time in continuation of his letter -cum-application dated on 25-3-1985 and copy of the said letter dated 25-3-1985 has produced hereto marked Annexure, II. The said letter dated 25-3-1985 was submitted before defendant No. 3 alongwith plff's school leaving certificate (original copy) which is ~~au~~ ~~an~~uthenticated and verified by the educational authority of Uttar Pradesh on 11-3-1985 in support of plaintiffs age. The said school leaving certificate xerox copy has been produced hereto marked Annexure III.

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The plaintiff says that the school leaving certificate is a conclusive proof of his birth date recorded therein. Defendants act in not accepting this evidence is against Article 51 of Civil Service Regulations and also against Ministry of defence decisions laying down general

from 30-9-1985. The above order is a bolt from the blue to the plaintiff. The said order if given effect from 39-9-1985, the plaintiff's opportunity to serve another 5 years, will be deprived. The plaintiff says that the defendants were bound to give opportunity to the plaintiff to establish his case. Order superannuating the plaintiff is punitive and against all canons of justice and fair play. Defendants with a view to deprive the plaintiff valuable right avoided to give reply in time of the second letter of the plaintiff dated 25-3-1985 and with malafide intention issued letter dated 8-7-1985 calling the ~~fax~~ plaintiff to produce documents which are required for preparation of plaintiff's pension papers. Therefore plaintiff, for want of time, could not serve notice under ~~w~~ section 80 of Civil procedure code which is legally required to file suit against defendants.

(6).- Plaintiff is likely to be deprived of another 5 year service. If the said order is given effect to plaintiff will suffer an irreparable loss and untold hardship. Plaintiff has got wife and eight children and the plaintiff is the only earning member ~~w~~ who is responsible to maintain large family and if the injunction is not granted the plaintiff's entire family will be suffered irreparable loss, the plaintiff would come on the street. On the other hand defendants will not suffer remotest loss if the

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ad-interim injunction sought for by the plaintiff is granted.

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Dated : 4 -9-1985.

Plaintiff.

Advocate for Plaintiff.

Heard Shri. Patil & Ors.
Pursued relevant documents - on record
order

Issue Show Cause notice of this
application to def. Relatable.

By 13-9-85

PL. allowed

Shri. Patil
5/9/85