

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 101/89
T.A. NO:

199

DATE OF DECISION 26.9.1991

Shri V.V. Mane.

Petitioner

Shri E.K. Thomas

Advocate for the Petitioners

Versus

Union of India & Anr.

Respondent

Shri V.G. Rega

Advocate for the Respondent(s)

O.A. NO:
T.A. NO:

179

CORAM:

The Hon'ble Mr. Justice U.C. Srivastava, Vice-Chairman,

The Hon'ble Mr. A.B. Gorthi, Member (A)

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 ?

Advocate for the Respondent(s)

(U.C. SRIVASTAVA)
VICE-CHAIRMAN.

mbm

CORAM:

The Hon'ble Mr.

The Hon'ble Mr.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.

Original Application No.101/89.

Shri V.M.Mane.

... Applicant

V/s.

Union of India & Another.

... Respondents.

Coram: Hon'ble Shri Justice U.C.Srivastava, Vice-Chairman,
Hon'ble Shri A.B.Gorthi, Member(A).

Appearances:-

Applicant by Mr.E.K.Thomas.
Respondents by Mr.V.G.Rēge.

Oral Judgment:-

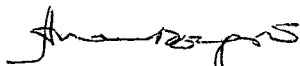
¶ Per Shri Justice U.C.Srivastava, Vice-Chairman ¶ Dt.26.9.1991

The applicant who retired from service on 31.1.89 was working as Naik in the Office of the Divisional Railway Manager, Solapur. It appears that when the applicant entered the service his date of birth admittedly was 25.1.1935. After coming to learn that the applicant is to retire on 31.1.1989 taking his birth to be 9.1.1931, the applicant made a representation against the same along with the school leaving certificate dated 1.10.1988 from Shrirampur Municipal School showing that his date of birth as 25.1.1935. There is no denial of the fact the applicant's date of birth initially entered in the service record was later on changed to 9.1.1931 and at the time of change the applicant was not appraised with the same nor has he appraised of the fact that his date of birth under service record has already been changed. In the mean time an appeal against notice of retirement was sent to Chief Personnel Officer of Central Railway on 26.4.1988. The applicant was appointed in the Great Indian Peninsular Railway on 3.7.1946 as an Office Boy even though he was a minor. His appeal was forwarded to Chief Personnel Officer, who directed him to produce a school leaving certificate which was accordingly produced,

but the appeal was rejected. Thereafter the applicant has approached this Tribunal. The respondents have opposed the prayer of the applicant regarding his correction of his age and his retention in service on the ground that the applicant could not have been taken in service at the age of 14 years as he was a minor. Obviously, he was taken in service as a minor and when he entered the service in his service record his date of birth was shown as 25.1.1935. It has been stated that the record indicates that his fixation of pay was made on 23.9.1949 and that from the perusal of the office note it appears that his pay was fixed at Rs.24 on 1.1.1947 in place of Rs.20/- and increased to Rs.25/- from 9.1.1947 in place of Rs.21/- and at Rs.25 from 25.1.1947 on the basis of recorded date of birth i.e. 9.1.1931. But no reference to any such certificate has been made in the reply. It has also been stated that the certificates which were filed indicate that his brother was born in 1933, as such the applicant could not have born in the year 1935. This shows that the date of birth recorded in the record was changed unilaterally and without giving any opportunity of hearing to the applicant and an inquiry was made, it was behind the back of the applicant and he is not associated with the inquiry. When the date of birth of an employee is recorded by the officials of the Railway Administration has been corrected behind the back of the applicant obviously an opportunity of hearing should have been given to the employee which has not been done. Accordingly, this application is allowed to the extent that the respondents are directed to hold an inquiry in the

12

matter associating the applicant and giving him an opportunity to explain and in case the applicant succeeds in proving that his date of birth was correctly recorded, the old date of birth recorded shall stand and the applicant will be taken in service. The inquiry shall be completed within six months. The applicant shall appear before the Divisional Personnel Officer of the Central Railway on 4.11.1991, ^{when the} ~~on which time~~ date of enquiry shall be fixed. No order as to costs.


(A.B. GORTHI)
MEMBER(A)


(U.C. SRIVASTAVA)
VICE-CHAIRMAN.

B.S.M.