

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL 3

NEW BOMBAY BENCH

O.A. No. 977/89

977/89

198

DATE OF DECISION 7.2.1990C.S. Patange

Petitioner

K.R. Jadhav

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

S.C. Dhawan

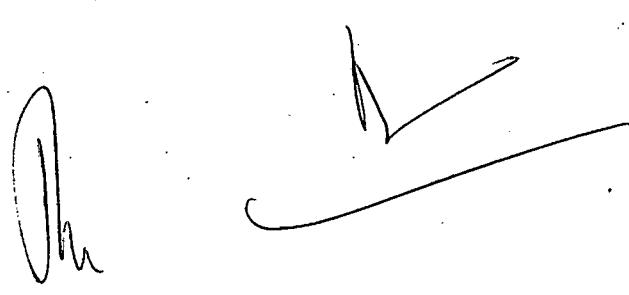
Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. M.B. Mujumdar, Member (J)

The Hon'ble Mr. P.S. Chaudhuri, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? Y
2. To be referred to the Reporter or not ? Y
3. Whether their Lordships wish to see the fair copy of the Judgement ? Y
4. Whether it needs to be circulated to other Benches of the Tribunal ? N



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A.977/89

C.S.Patange,
C/o.Shri K.R.Jadhav,
Advocate,
4,Mayur,
Opp:-UCO Bank,
Tilak Nagar,
Dombivili(E),
Thane.

.. Applicant

vs.

1. Union of India
through
The Secretary,
Ministry of Transport,
Department of Railways,
New Delhi.
2. The General Manager,
Central Railway,
Bombay V.T.
3. The Divisional Railway Manager,
Central Railway,
Bombay V.T.

.. Respondents

Coram: Hon'ble Member(J)Shri M.B.Mujumdar
Hon'ble Member(A)Shri P.S.Chaudhuri

Appearances:

1. Mr.K.R.Jadhav
Advocate for the
Applicant.
2. Mr.S.C.Dhawan
Advocate for the
Respondents.

ORAL JUDGMENT

(Per M.B.Mujumdar, Member(J)) Date: 7.2.1990

Heard Mr.K.R.Jadhav for the applicant
and Mr.S.C.Dhawan for the respondents. The respon-
dents have filed the affidavit of ^{Mr.} S.N.S.Iyer, who
is working as Senior Divisional Personnel Officer,
Central Railway giving all the relevant facts and
opposing admission. The relevant facts are these:

2. The applicant was appointed as a clerk
with the Divisional Railway Manager, Central Railway
Bombay on 30.12.1954. But before that he had served
as a clerk in the Civil Supplies Department where
he was appointed on 24.5.1945. He served in the



department till he was retrenched from that department on 28.2.1954. While joining railway service he had given a statement, a copy of which is produced at Ex.1 ^{to} in the reply of the respondents, which shows that the applicant had joined Civil Supplies Department on 24.5.1945 as a clerk and he was relieved from that department on 28.2.1954. In the service register which was prepared after the applicant joined service his date of birth was shown as 8.4.1926. We have seen the original service register and we are satisfied that the number 3 in the year "1936" is over written. The department had published the seniority list in 1958 and in that seniority list also his birth date was shown as 8.4.1926. In June, 1970 the applicant had applied for a loan to the Central Railway Employees' Co-operative Bank, Byculla, Bombay. A copy of that application is produced at Ex.3. to the reply of the respondents. In that application the applicant had given his birth date as 8.4.1926. It is the case of the respondents that sometime thereafter the applicant had tampered with the date of birth in the service record changing it from 8.4.1926 to 8.4.1936 by overwriting on the figure "2" and changing it to "3". According to the respondents the applicant had access to the relevant record.

3. Along with the memorandum dtd. 18.10.1989 an article of charge is served on the applicant. According to the charge while the applicant was functioning as OS Gr.I in DRM's office (Personnel Branch) he committed serious misconduct in that he altered or was instrumental in altering the date of birth recorded in his service book from 8.4.1926 to 8.4.1936 in order to postpone his date of superannuation by 10 years for getting the benefit of longer years of service and thereby

he continued in service beyond the date of superannuation. According to the respondents this charge was framed against the applicant after they discovered the fact about tampering of the service record. In order to verify the position about tampering of the record the respondents had written a letter dt. 1.8.1989 to the applicant calling upon him to produce the documents showing his correct date of birth. A copy of that letter is produced at Ex.4 to the reply of the respondents. But the applicant has neither produced any document nor reply to the said letter. It was thereafter that the chargesheet was served on the applicant. According to the respondents the applicant did not reply to the chargesheet and hence a reminder dtd. 4.12.1989 was sent to the applicant calling for his explanation within the extended period. The applicant showed us the reply dtd. 10.1.1990. But it was given after the present application was filed. May it be noted that the departmental enquiry on the charge framed against him is still pending. However, by letter dated 23.10.1989 the applicant is put off from duty with effect from the date of receipt of the letter or from 25.10.1989 whichever is earlier. According to the applicant he has received the letter on 25.10.1989 and he is put off from duty from that date. That letter is challenged by the applicant in this application and it reads as under:

"Sub: Retirement from Railway Service.

According to the original entries in your Service Register and other allied official records, your date of birth is 8.4.1926. Consequently, you were due to retire on 30.4.1984 after attaining the

age of superannuation of 58 years. Your continuation in service beyond 30.4.84 is incorrect.

2. As you have already attained retirement age, you are finally, put off from duty with effect from the date you receive this letter or 25.10.1989 whichever is earlier. Final settlement will be worked out on the basis of your status as on 30.4.84 (the normal retirement date on superannuation) and paid subject to fulfilment of other conditions as applicable.

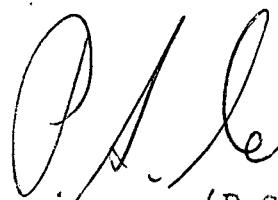
3. Please acknowledge receipt."

4. We have heard Mr. K.R.Jadhav, learned advocate for the applicant and Mr. S.C.Dhawan learned advocate for the respondents.

5. Mr.Jadhav submitted that the respondents were not justified in putting the applicant off duty after initiating the departmental enquiry against him. But the charge in the departmental enquiry is for tampering with the service record or being instrumental for the same. That enquiry is still pending and in our opinion the respondents need not have waited till the conclusion of the enquiry when they satisfied that the applicant ~~was~~ ^{were} wrongly continued in service beyond April, 1984. We have given the relevant facts above and all of them ^{are} substantiated by documents on record. According to the statement given by the applicant while joining railway service he was appointed in Civil Supplies Department as a Clerk on 24.5.1945. If the changed birth date in service record, namely, 8.4.36 is correct it shall have to be ~~assumed~~ ^{pleaded} that the applicant joined Civil Supplies Department as a Clerk at the age of 9 years only.

We do not think that any department could have taken such a boy in service as a clerk. Though the applicant has passed SSC examination in 1954 inspite of our directions he ~~is~~ ^{was} unable to produce any record or proof showing that his birth date is 8.4.1936 and not 8.4.1926 as originally ~~was~~ recorded in the service book. Hence we find no merit whatsoever in this application and hence we reject it summarily.

6. At the same time in view of the facts we are inclined to saddle the applicant with costs. Hence we direct that the applicant shall pay Rs.300/- as cost of this case to the respondents. He should pay the cost within one month from today. If he failed to pay the cost the respondents will be entitled to recover the ~~cost~~ ^{same} from the retirement benefits, due to him.



(P.S.CHAUDHURI)
Member(A)


(M.B. MAJUMDAR)
Member(J)

Dec 1990

Send to Pearties

On 9.3.90.

