

(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. NO: 376/89

199

T.A. NO:

DATE OF DECISION

3-6-1991

SHRI S.K.BANSOD

Petitioner

SHRI D.V.GANGAL

Advocate for the Petitioners

Versus

GENERAL MANAGER, C.R., Bombay Respondent
V.T., Bombay. and ors.

MR. J.G.SAWANT

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. M.Y.PRIOLKAR, MEMBER(A)

The Hon'ble Mr.

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

M.Y.PRIOLKAR
MEMBER (A)

mbm

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

ORIGINAL APPLICATION NO. 376/89

SHRI SHYAMSUNDER KAMUEL BANSOD,
Carriage and Wagen Superintendent,
in the office Divnl.Rly. Manager,
Bhusaval.

...Applicant

v/s

Union of India and another

... Respondents

CORAM : HON'BLE MEMBER SHIR M.Y.PRIOLKAR, MEMBER (A)

Appearance :

Shri D.V.Gangal, Adv.
for the applicant

Shri J.G.Sawant, Adv.
for the respondents.

JUDGEMENT

(PER : M.Y.PRIOLKAR, M/A)

DATED : 3-6-1992

The grievance of the applicant in this case is that his correct date of birth is 27.9.1932 but it has been wrongly recorded in his service record as 26.5.1931. The applicant, who is stated to be a nonmatric, was initially appointed in Railway service as Carriage and Wagon Coolie on 26.5.1949 and retired on superannuation as Carriage and Wagon Superintendent on 31.5.1989, on the basis of the alleged incorrect date of birth of 26.5.1932. 31/6

2. The applicant's initial appointment was on the basis of a letter of ~~the~~ request of his father, who was ~~also~~ a Railway employee, which was also endorsed by the local Chaplain and in which the applicant was stated to be 18 yrs. old. The applicant's date of birth was accordingly recorded in the service Register as 26.5.1931 and the applicant's thumb impression was also obtained therein. The applicant's contentions is that such entry of date of birth is illegal

being contrary to Rule 144 of Railway Establishment Code under which the entry of date of birth in the service record should be in the employee's own handwriting when the employee is literate, as in this case.

3. The respondents contend that the applicant deliberately suppressed his actual date of birth and declared himself as 18 years old, which was the minimum age limit for recruitment, with the malafide intention to get the appointment in the year 1949. The respondents have also stated that the applicant had never submitted any representation in 1981, as claimed by him, for change in date of birth and his first representation for this purpose was received only on 7.2.1989 i.e. after 40 years of his appointment, although seniority lists showing his date of birth as 26.5.1931 were circulated in the years 1982 1984, 1986 and 1989. For these reasons and also on the ground that the "cut-off date" for receipt of such requests from literate employees was 31.7.1973, the applicant's request for change in the recorded date of birth was treated as time barred and hence rejected by the competent Authority.

4. The learned counsel for the applicant has brought to my notice certain provisions of the Railway Establishment Code, Rules 139 and 140, from which it is apparent that the age limit was 16 years for the category of posts to which the applicant was initially recruited. The plea of time bar is also not tenable in this case in view of the decision

of the Principal Bench of this Tribunal in the case of Hiralal V Union of India (1987(1)ATR 414) that the date of birth can be corrected at any time despite service record and seniority list being signed repeatedly provided proper proof and unimpeachable evidence is produced.

5. Evidently, a date of birth which has remained in the service record for almost 40 years can be permitted to be altered only on the basis of authentic documentary evidence. The documents produced by the applicant in support of his claim for change in date of birth are the municipal birth certificate and a school leaving certificate. The birth certificate dated 17.4.1989 (Ann. IV to the application) from the Greater Bombay Municipal Corporation shows the date of birth as 27.9.1932 and also that this birth was registered on 17.4.1989 and, therefore, this certificate cannot be accepted as a contemporary record. The school leaving certificate dated 18.7.1989 is of a private school of Lasalgaon, Dist Nasik, ^{and} ~~which~~ was verified by an officer of the respondents by a visit to the School. According to the verification report (Ex. R-I to the reply to the rejoinder), "there is no column of date of birth in the register and no date of birth has been recorded of any of the students in the register (Book No.4) except of the applicant. Moreover, "all the entries in the register are in black ink whereas the date of birth of the above employee is written in blue ink, also it is seen that a TC was issued to the abovenamed employee in 1955, this entry is in blue ink but the same is faint than of the entry of date of birth". This report thus casts genuine doubts about the authenticity of the entry of date of birth as entered in the school register. In my view, therefore, both the documents produced by the applicant do not constitute unimpeachable documentary evidence required to permit a change in date of birth which has remained on record for almost 40 years.

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6v On the basis of the foregoing discussion, I see no merit in this application, which is accordingly rejected with no order as to costs.

M.Y. Priolkar
(M.Y. PRIOLKAR)
MEMBER(A)