

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 935/89

~~XXXXXX~~

198

DATE OF DECISION 12.7.1991

Bhagwandin Ramswaroop Mishra Petitioner

Y.S.Yawalkar, Advocate for the Petitioner (s)

Versus

UNION OF INDIA AND ORS. Respondent

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Advocate for the Respondent (s)

## CORAM

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

The Hon'ble Mr. P.S.CHAUDHURI, MEMBER (A)

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

*} Yes*

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
CAMP AT NAGPUR

ORIGINAL APPLICATION NO.935/89

Bhagwandin Ramswaroop Mishra  
Senior Parcel Clerk,  
Chandrapur.

... Applicant

V/

Union of India through  
General Manager,  
Central Railway  
Bombay and 2 others

... Respondents

CORAM : HON'BLE SHRI JUSTICE U.C.SRIVASTAVA, Vice-Chairman,  
HON'BLE SHRI P.S.CHAUDHURI, Member (A)

Appearance

Shri V.S.Yawalkar,  
Adv. for the applicant

ORAL JUDGMENT  
(PER: U.C.SRIVASTAVA, Vice-Chairman)

DATED: 12.7.1991

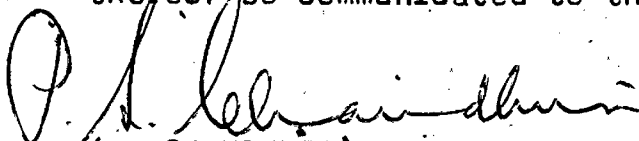
The applicant joined the Railway service as Assistant Pointman on 3.2.1952 and was ultimately promoted to the post of Senior Parcel Clerk on 24.7.1989. According to the applicant his date of birth is 1st April 1933 and in his School Certificate this date of birth was recorded, so he is due to retire only on 31.3.1991. However, he received a letter dated 3.10.1988 from the respondent's office stating that he is to retire on 31.12.1989. He made a representation with which he sent a copy of the School Leaving Certificate and requested the respondents to verify and correct the date of birth accordingly. No intimation prior to this was given regarding his retirement and as such he could not take action before that. He was always under the impression that his date of birth is correctly recorded as 1.4.1933 and he is due

to retire on 31.3.1991. Besides, he qualified for the post of Shunting Jamadar in 1962 and so was required to submit his School leaving Certificate in order to ascertain his qualifications and date of birth. The results of the test were not to be declared without the School leaving Certificate and hence the applicant submitted the original copy of School leaving Certificate and subsequently his result was declared. That is why he is under the belief that he would retire on 31.3.1991. The applicant made a representation which was rejected and he was retired in the year 1989. Hence he approached this Tribunal.

2. The respondents have pleaded that in the School Leaving Certificate there appears to be some variation in the name inasmuch as it is recorded as Ramswaroop Missir and not Mishra, not knowing that 'Mishra' is a sophisticated form of 'Missir' and both the names are one and the same. It has not been stated as to how he was allowed to enter the service without the School Leaving Certificate which indicates his date of birth as 1.4.1933. This fact was not considered by the respondents and his representation was rejected and the date of birth in question was not corrected. May be the applicant remained in the false belief that a particular date is recorded and even if he has worked <sup>for</sup> thereafter 36 years and only then brought it to the notice of respondents, that <sup>is</sup> was no ground for rejecting his representation. When a representation was made and the original certificate is produced, it was the duty of the respondents to make an inquiry associating the applicant with it or even behind his back an inquiry could have been made from the institution in which he studied. This was not done. Without making any inquiry and without allowing the applicant to prove

the date of birth the representation was rejected. It should not have been dealt with in this manner. Although the applicant has retired this application has not become infructuous as if the date of birth is ultimately corrected he may get benefits.

3. Accordingly, this application is allowed to the extent that the respondents are directed to make an inquiry in the matter in accordance with law and find out whether his date of birth was correctly or incorrectly recorded. If this inquiry shows that the applicant's claim is correct the respondents would pay the applicant all consequential benefits. Let an inquiry in this behalf be completed within a period of six months from the date of communication of this order and the results thereof be communicated to the applicant by a speaking order.

  
(P.S. CHAUDHURI)  
MEMBER (A)

  
(U.C. SRIVASTAVA)  
VICE-CHAIRMAN