

## CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH

O.A.NO.: 598 OF 2005

[Patna, this *Twosday* the *14<sup>th</sup>* Day of February, 2006]  
.....C O R A MHON'BLE MR. JUSTICE P.K.SINHA, VICE-CHAIRMAN.  
.....

Bhuneshwar Nath Thakur, S/o Late Ram Dutt Thakur, resident of village :  
 Nauranga, P.S.: Bereyan, District : Baliya [U.P] A + P Civil Line Malabag,  
 P.S.: Ara Nawada, District : Bhojpur [Ara], Bihar. ....APPLICANT.  
By Advocate :- Shri Manoj Kumar.

Vs.

1. The Union of India through Chief Postmaster, Bihar Zonal Office,  
Patna.
2. The Superintendent of Post Offices, Bhojpur [Ara].
3. The Inspector of Post Office, Bhojpur [Ara]. ....RESPONDENTS  
By Advocate :- Shri Amresh Kumar Mishra, ASC.

O R D E R

Justice P. K. Sinha, V.C.:- The applicant who was appointed as EDA of  
 Nauranga Branch Post Office claims that his date of birth was 11.06.1944 but  
 treating his date of birth to be 01.01.1940 which is on the basis of inspection  
 report submitted by a Postal Inspector dated 05.05.1990 in which his date of  
 birth was shown to be 01.01.1940, he was sought to be retired w.e.f.  
 31.12.2004 [the age of retirement being 65 years], the Postal Department  
 wrongly treating his date of joining the service to be 26.12.1958 on the basis of  
 some report of the Postal Inspector [Annexure-7(i)], though he had joined as  
 EDA on 26.12.1962.



2. In so far as his date of joining is concerned, the applicant has filed Annexure-1 which is a letter of appointment under which he was so appointed w.e.f. 26.11.1962 which date of joining has also been admitted by the respondents in para 5 of the written statement. The only bone of contention remains to be the date of birth of the applicant.

3. In support of his case the applicant has placed following points :-

[i] Annexure-2 is the transfer certificate granted by the Headmaster of Middle School, Chakni [Sahabad] in which his date of birth was shown to be 11.06.1944. It is claimed that this was issued while he was a school student.

[ii][a] Annexure-3 purports to be a representation filed by the applicant dated 29.04.1993 disputing his date of birth shown by the Postal Inspector as aforesaid blaming bias against the Postal Inspector praying therein to correct his date of birth which was 11.06.1944.

[b] Annexure-4 is similar representation purported to have been sent in the year 1996 again claiming wrong entry of date of birth in the inspection report of the Postal Inspector in the year 1990.

[c] Annexure-5 purports to be the similar application dated 04.04.2000. However, one significant point is that it has been claimed herein that from 1956 up to 1989 nowhere his date of birth was recorded.

[d] Annexure-5[i] is dated 02.06.2004 making the same claim and challenging the same inspection report.

[e] Annexure-5[ii] is similar letter dated 19.07.2004 making similar prayer. In this letter the letter at Annexure-5[i] has also been referred to.

[iii] Annexure-7 is representation dated 09.11.2004 in which, for the first time, as its subject, the date of birth as mentioned in the gradation list, also is challenged along with the aforesaid report of 1990.

4. The applicant thereafter came to this Tribunal in OA 885 of 2004 which was disposed of by order dated 12.04.2005 and this Tribunal, noticing that a representation was still pending though the applicant was made to retire w.e.f. 31.12.2004, directed the respondent no.1 to decide the representation dated 23.11.2004 by recording a reasoned and speaking order. The reasoned order is at Annexure-10 in which his representations filed on 02.06.2004 and 19.07.2004 were only recognized as having been received in



connection with the changed date of birth, claiming that soon thereafter action was taken and inquiry was conducted by the Supdt. Of Post Offices, Ara with relevant records. The claim of the applicant was rejected by this speaking order which necessitated filing of the instant OA.

5. The respondents have appeared and filed their written statement. The learned counsel has placed following points in support of the case of the respondents :-

[i] For the first time the applicant had submitted representation in the year 2000, i.e., 14 years after the inspection report submitted by the Postal Inspector, a copy of which invariably used to be sent to the concerned Branch Post Offices, but prior to that the applicant never had come before the authorities for change of date of birth. The speaking order at Annexure-10 states that a copy of the inspection report was available with the applicant being incharge of the Branch Post Office but he did not raise any objection.

[ii] In the gradation lists published by the department in the years 1992 & 1997, the date of birth of the applicant was mentioned to be 11.06.1944 but the applicant did not challenge even those entries.

6. **Findings :-**

That the applicant was appointed as GDSBPM at Nauranga

Branch Office where he had joined on 23.12.1962 is an admitted position. It is not denied that the gradation lists were published in the years 1992 & 1997 and circulated to all concerned and it is claimed by the respondents that even after having knowledge in the years 1990, 1992 & 1997 that his date of birth was mentioned to be 01.01.1940, for the first time he complained against that in the year 2004. On the other hand, the claim of the applicant is that earlier also he had been sending representations such as at Annexure-3, dated 29.04.2003, Annexure-4, dated 27.05.1996 and Annexure-5, dated 04.04.2000. Learned counsel submits that those were sent through registered post receipt of which, however, has been denied by the respondents.

7. I am more inclined to agree with the respondents because in Annexure-5[i], dated 02.06.2004 the applicant has only complained against the date of birth mentioned in the report of the Postal Inspector, not in the gradation lists. In the representation at Annexure-5[ii], dated 19.07.2004 also the gradation lists were not mentioned at all though the earlier representation dated 02.06.2004 [mentioned as 02.07.2004] has been noted. That appears to have been examined and specifically he was told vide department's letter dated 19.10.2004 at Annexure-6 that his representation was not acceptable as it was given 14 years after the report of the Postal Inspector.

8. It is for the first time in Annexure-7, dated 09.11.2004, when the applicant was at the verge of retirement, that in the subject of the representation he had mentioned about the date of birth in the gradation lists.

*[Handwritten signature]*

9. If the earlier representations were filed against the entries in the gradation lists, that must have been mentioned in these representations. Further, if those earlier representations up to the year 2003 were filed, those were expected to have been mentioned in the two representations of the year 2004 which was not done. The last representation of the year 2004 however, mentions the earlier representation of the year 2004 only.

10. This gives credence to the assertion of the respondents that even after mention of his date of birth as relied upon by the respondents in the inspection report of 1990 and gradation lists of 1992 & 1997, the applicant never complained against such mention of date of birth but came for the first time before the respondents only when he was at the verge of retirement.

11. In so far as the school leaving certificate is concerned, that also has been supplied belatedly and at this stage could not have been relied upon or given credence when the applicant had almost reached the age of superannuation.

12. It is admitted position that a separate service book like in the case of regular employees of the Government is not maintained in the case of ED employees like the applicant.

13. In view of what has been the settled position up to the publication of the final gradation list in the year 1997 <sup>that</sup> cannot be sought to be <sub>§.</sub>



7.

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unsettled by such application for change of date of birth at the time when the employee was going to retire.

14. In aforesaid view of the matter, this application is dismissed. No costs.

A handwritten signature in black ink, appearing to be 'P.K. Sinha', written over a horizontal line.

[P.K.Sinha]/VC

skj.