

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA No. 637 of 2005**

Patna, dated the 3rd November, 2006
CORAM: The Hon'ble Mr.S.N.P.N.Sinha, M[A]

Ram Kishore Mahto, son of Late Gopit Mahto, Village Raela Narayan,
P.S. Gaighat, District Muzaffarpur.

By Advocate: Shri Ravi Ranjan .. Applicant

versus

1. The Union of India through the General Manager, NF Railway, Katihar.
2. The General Manager[Personnel], NF Railway, Katihar.
3. The Divisional Railway Manager, [Personnel], Katihar, NF Railway.
4. The Senior Divisional Railway Manager[Personnel], Katihar.

By Advocate: Shri R.N. Choudhary. .. Respondents

O R D E R

S.N.P.N.Sinha, M[A]:-

The present application has been filed for quashing of an order dated 21.12.2004 passed by DRM[P], NF Railway, Katihar, whereby the applicant's claim of retiral benefits has been deducted on the grounds that he served for a period of 11 months more than his actual date of superannuation. It is claimed that the applicant retired on 31.10.2004 from the post of Technician in the office of SE[E], KGN. He received a letter issued by DRM[P], Katihar by which his claim of retirement benefits of about Rs.1,84,345.00 was deducted. He represented on this issue but to no effect.

2. It was stated on the respondents' behalf that the applicant joined Railway service on 12.2.1966. His date of birth, as recorded in his Service-Book at the beginning of his service, was 1.12.1943 but at a later date, it was tampered with and altered to 31.10.1944 by someone

with ulterior motive and perhaps in connivance with the applicant. His date of birth, as recorded in the seniority list dated 1.4.80 and 1.4.88, is 1.12.1943. His applications for advance from Provident Fund on various dates from 1972 to 2003 mention his date of birth as 1.12.1943. The aforesaid issue was detected during processing his case for payment of final dues in course of checking and verification. According to his date of birth being 1.12.1943, he ought to have retired on 30.11.2003 but he continued to serve up to 31.10.2004 illegally. As per Railway Board's letter No.E[G]97 RTI-1, dated 7.7.1977, in all cases of irregular continuance in service beyond the age of superannuation, the period of over-stay will be treated as wholly irregular for which the employee will be considered equally responsible and immediate action will be taken for recovery of payments made for the entire period of over-stay. This is said to have been upheld by the Apex Court in Radha Kishan v.Union of India & others in SLP[C] No.3721 of 1997.

3. The Tribunal directed the respondents to produce the original Service-Book, gradation lists and related papers, in original, which was complied with. Records have been perused. The Service-Book has 1.12.1943 as the ~~the~~ date of the applicant's birth written against "place of birth" which has been struck off and 31.10.1944 has been written above it against "Date of birth" with no signature or initials on it. The gradation lists were also perused along with various applications of the applicant for advance from Provident Fund. There is a noting in the original file at P.30 [dated 1.11.2004] which says that the applicant is illiterate and has no birth certificate or horoscope, so determination of his age may be based on the opinion of medical authority. AMO/IC/KTR, NF Railway, had declared him fit for Railway service vide No.790 dated 31.10.64 certifying his age as 20 years which is acceptable in such cases. Accordingly, his date of birth works out as 31.10.44. It is further mentioned that in the first PF[W] Form in the year 1971, his date of birth

was shown as 31.10.44 and was passed by the Accounts Department but in all subsequent applications and documents it is shown as 1.12.43. The Medical Officer's certification of age as being 20 years in 1964 may be an estimation and working out the applicant's date of birth on that basis to be 31.10.44 may not be an exact exercise. So in this case on one hand are the entries of the Service Book with the cutting there as well as application for PF loan of the year 1971 with the applicant's date of birth as 31.10.44 and on the other, the date in the two gradation lists of the year 1980 and 1988 and the same in 30 applications for PF loan from the year 1972 to 2003, being 1.12.43. It appears, therefore, that the competent authority in this case had ^{valid reason for to} ~~valid reason for to~~ decided that the date of birth of the applicant be treated to be 1.12.43.

4. The case in view of the aforesaid does not give any compelling reason to intervene in the matter. The application is, therefore, rejected at this stage itself. No order as to costs.



[S.N.P.N.Sinha] MA

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