

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH**

O.A. No. 626 of 2005

Date of order : 26.12.06.

C O R A M

**Hon'ble Ms. Sadhna Srivastava, Member (J)
Hon'ble Shri S.N.P.N. Sinha, Member (A)**

Kameshwar Paswan, S/o Late Jaypati Paswan, resident of village & P.O. - Bahrawan, P.S. Badh, Patna, working as Gatekeeper under the station Superintendent, E.C. Railway, Maheshkhut (Bihar).

....Applicant

By Advocate : Shri A.N. Jha

Vs.

1. The Union of India through the General Manager, E.C. Railway, at and P.O. Hajipur, Vaishali.
2. The General Manager (Personnel), E.C. Railway, at and P.O. Hajipur, Vaishali.
3. The Divisional Railway Manager, E.C. Railway, Sonepur Division, Sonepur.
4. The Divisional Railway Manager (Personnel), E.C. Railway, Sonepur Division, Sonepur.
5. The Station Supdt., E.C. Railway, Kaheshkhur, Bihar.

....Respondents

By Advocate : Shri P.K. Tiwary.

ORDER

By Sadhna Srivastava, M (J):-

The applicant has raised a grievance that he had

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disclosed his date of birth as 13.1.1947 prior to his appointment, but he has been retired treating his date of birth as 13.1.1943.

2. The facts are that the applicant was initially engaged as substitute/casual labour in Sonepur Railway Division. Thereafter, on the basis of screening test he was appointed as Group 'D' employee with effect from 11.2.1984. All of a sudden axe fell on his head when the Station Superintendent, E.C. Railway, Maheshkhut by letter dated 10.9.2004 (Annexure A/4) directed the applicant to report at Divisional Head quarters on the ground that he had superannuated on the basis of his date of birth as 13.1.1943. Thereafter, by order of D.R.M., Sonepur dated 4.2.2005 as contained in Annexure A/7, it was further directed that his date of birth has been held to be 13.1.1943 and therefore, he be put off duty. The applicant submitted representation against the said order. However, finally, the General Manager, E.C. Railway, Hajipur passed an order dated 4.5.2005 as contained in Annexure A/10 to the effect that the



date of birth recorded as 13.1.1943 has been interpolated as 13.1.1947 in the medical memo as well as service record. The instant OA was then filed on 20.9.2005.

3. We have heard the learned counsel for the parties, perused the pleadings and original records (produced by the respondents before us). We may, in the first instance, mention some relevant facts which have been noticed by us. Firstly, we find that in the notice dated 15.7.1983 (Annexure A/1) issued to candidates (including the applicant), giving information about the date of test and the documents required to be produced. It mentions that illiterate candidates can produce certificate of date of birth either from village Mukhiya or Municipal Board. The applicant produced the certificate from Mukhiya of village, which is available on record. Secondly, in the leave account (part of original record) his date of birth is recorded as 13.1.1947. Thirdly, the seniority list mentions his date of birth as 13.1.1947. Fourthly, the application for withdrawal of P.F. (Annexure A/8 series) also mentions his date of birth as 13.1.1947. Fifthly, the date

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of birth has been recorded as 13.1.1947 in the Attestation Form submitted by the applicant on 23.1.1984 (prior to appointment letter). Sixthly, the Inspector of Railway Department in his report dated 8.X.2004 (Paper No. 85) of personal file has concluded in his report that there appears no basis for holding that the applicant's date of birth is 13.1.1943. Seventhly, D.R.M, Sonepur mentioning all these facts sought the orders of General Manager by letter dated 27.10.2004 (Paper No. 86 of personal file), The general Manager's order dated 4.5.2005 (Annexure A/10) is to the effect that the date of birth recorded as 13.1.1943 in the medical memo and service record has been altered to 13.1.1947.

4. The question before us is whether the figure '7' has been interpolated in place of figure '3' i.e. 1943 has been changed to the year 1947. It is difficult to discover from a naked eye that figure '7' has been written in place of '3'. Secondly, the question is as to whether the applicant could have access to the medical memo and service record.



Thirdly, the applicant had disclosed his date of birth as 13.1.1947 right from day one. What could be the reason for him or what benefit he was likely to get by making an overwriting in the service record. Fourthly, in the service book the applicant's date of birth has been recorded as 13.1.1947 in words also. The writing in words appears to be in the same ink and flow as the other column of the said [↑] ~~form~~ of service book. Thus, we are of the opinion that the inference drawn by the General Manager, E.C. Railway is not correct. The reason is that if the date of birth was originally recorded as 13.1.1943 in figure, how could the words - "तेरह जनवरी बालीस ⁴ सो दो तालीस" be written in Column 3 of service book. The fact that the date of birth as disclosed by the applicant (13.1.1947) has been written in words also gives a final blow to the [↑] ⁱⁿ inference raised by General Manager that the applicant's date of birth was recorded as 13.1.1943 in the service book. Consequently, we are of the opinion that the orders as contained in Annexure A/7 and A/10 on the basis of which the applicant's date of birth has been treated to be



13.1.1943 are liable to be quashed.

5. Resultantly, the OA is allowed. The impugned orders at Annexure A/7 and A/10 treating the applicant's date of birth as 13.1.1943 are hereby quashed. The applicant will be entitled for all consequential benefits, including arrears of salary till his retirement as per his date of birth as 13.1.1947.

There will be no order as to the costs.


[S.N.P.N. Sinha] M [A]


[Sadhna Srivastava] M [J]

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