

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 465/1996

Date of Decision: 22.1.97

Shri Mangal Moti Gajre, Petitioner/s

Shri R. G. Bhore, Advocate for the
Petitioner/~~s~~

V/s.

Union Of India & Others, Respondent/s

Shri P. S. Lambat, Advocate for the
Respondent/~~s~~

CORAM:

Hon'ble Shri B.S. Hegde, Member (J).

~~Hon'ble Shri Dixit~~

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?

Hegde
(B. S. HEGDE)
MEMBER (J).

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

CAMP : NAGPUR.

ORIGINAL APPLICATION NO. : 465/96.

Dated this 27/7, the Monday day of January, 1997.

CORAM : HON'BLE SHRI B. S. HEGDE, MEMBER (J).

Mangal Moti Gajre,
Peon,
D.M.D, Central Railway,
NAGPUR.

... **Applicant**

(By Advocate Shri R. G. Bhore).

VERSUS

The Chairman,
Central Railway Board,
Bombay V.T.,
Bombay.

The Finance Adviser,
Chief Accounts Officer,
Central Railway Division
V.T., Bombay.

The Senior Division Accounts
Officer, Central Railway,
NAGPUR.

... **Respondents.**

(By Advocate Shri P.S. Lambat)

: ORDER :

PER. : SHRI B. S. HEGDE, MEMBER (J).

Heard Shri R. G. Bhore for the applicant and
Shri P. S. Lambat for the respondents.

2. In this O.A. the applicant is challenging the impugned order dated 24.07.1995 wherein it is stated "that the Board vide their letter dated 04.08.1972 had given an opportunity to all railway servants who were already in employment on 03.12.1971 to represent against their recorded date of birth upto 31.07.1973 for which vide publicity in the Central Railway Gazette was given. Since the applicant did not avail of this opportunity at that time, his request for change in the recorded date of birth cannot be acceded to at this distant date."

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3. The brief facts of the case are that the applicant joined the department as Safaiwala in the year 1962 and he retired from service in 08/1996. Before his retirement, vide his letter dated 02.11.1994 he sought for change in the date of birth and in support of his contention, he obtained a school leaving certificate issued by the Anthony's Primary School Ajni, Nagpur, wherein it is stated that his date of birth is 15.06.1941 whereas his date of birth as entered in the service record is 05.08.1938. Accordingly, he prayed for change in the date of birth by filing this O.A. in the year 1996. During the course of hearing, the learned counsel for the applicant has drawn my attention to the order of the Railway Board vide dated 19.10.1986 on the basis of PNM Meeting ~~vide~~ Railway Board's letter dated 25.10.1978 wherein it is stated that "As for illiterate staff, the rule had always been that where their date of birth had been incorrectly entered they could represent and such representations could be conceded. It was agreed that a clarification would be issued that representations for alteration of date of birth from illiterate Class-IV staff could be entertained without any time limit being stipulated for submitting such claims." Further, the circular issued earlier extending the period upto 31.07.1973 does not apply to representations from illiterate staff, since the rule had always provided for corrections being made in their case.

4. It may be noticed that the representation of the applicant has been considered by the competent authority and rejected the claim of the applicant. It is true that no limitation is provided as per the guidelines issued by the Railway Board for making representation but the acceptance or rejection in the change of date of birth

is left to the competent authority to decide, depending upon the type of corroborate evidence adduced by the applicant. The learned counsel for the applicant has not stated anywhere in the O.A., as in what way the legal rights of the applicant have been violated by virtue of the impugned order. The Apex Court has time and again held that the application for correction of the date of birth entered in the Service Book at the time of appointment and for the first time before the date of retirement seeks for change of date of birth is hopelessly barred by time and does not merit any consideration.

5. The applicant has not made any representation within a period of five years of his entering into service and throughout he has been signing the service record till his retirement and no objection was raised by him. It is also held that change of date of birth at the fag end of service should not normally be entertained, unless cogent evidence is adduced by the applicant concerned. Except the alleged school leaving certificate, the applicant has not adduced any other evidence to establish his case. In the circumstances, the decision of the competent authority stating that change of date of birth at the fag end of retirement cannot be accepted is wholly justified. Even the very same school leaving certificate he could have furnished it at earlier point of time, which he did not care to do so.

6. In the result, I am of the view, that the O.A. is devoid of merit and the same is dismissed. There will be no order as to cost.


(B.S. HEGDE)
MEMBER (J).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GULESTAN BLEG. NO. 6, PRESCOT RD., 4TH FLR.,
MUMBAI - 400 001.

Review Petition No. (N) 7/97 in
Original application No. 465/96.
Dated this 16th DAY OF MAY, 1997.

CORAM : Hon'ble Shri B.S.Hegde, Member (J).

Mangal Moti Gajre,
Feo,
O/O. NMO,
Central Railway,
Nagpur.

... Review Petitioner.

v/s.

1. Chairman, Central Railway Board,
Mumbai C.S.T.,
Mumbai.

2. The Finance Adviser,
Chief Accounts Officer,
Central Railway Division,
Mumbai C.S.T., Mumbai.

3. The Senior Division Accounts Officer,
Central Railway,
Nagpur.

... Respondents.

|| ORDER BY CIRCULATION ||

|| Per Shri B.S.Hegde, Member (J) ||

The applicant has filed this review petition seeking review of judgement dated 27/1/97. In the review petition it is stated that the Tribunal has not given any speaking order regarding the change of date of birth. The said contention is not justified. Tribunal has passed a detailed order, and has also stated that it is true that no limitation is provided as per the guidelines issued by the Railway Board for making representation for alteration of Date of Birth from illiterate class-IV employees. But the acceptance or rejection is left to the competent authority to decided depending upon the type of corrorate evidence adduced by the applicant. The applicant has sought for change of date of birth, on the basis of his School Leaving Certification which he obtained from Anthony's Primary School Ajni, Nagpur wherein it is stated that the

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date of birth of the applicant is 15/6/1941 whereas the date of birth as entered in the service record is 5/8/1938. Till his retirement he has not raised up the issue though sufficient opportunity was given to the applicant to rectify the same. It is an admitted fact that the applicant has not made any representation within a period of 5 years of entering into service though he has been signing the service record till his retirement and no objection has been raised by him in this behalf.

2. The OA was disposed of that no representation was made by the applicant within a period of five years of his entering into service and the applicant failed to substantiate his claim through any reliable document excepting the School Leaving Certificate obtained subsequently. However, the ~~applicant~~ applicant has sought for change of date of birth at the fag end of service when he is due for retirement. Courts have held that such tendency is to be ~~reprehensible~~ and should not be undertaken. In the result, I do not find any merit in the Rview petition and the same is dismissed by circulation.


(B. S. HEGDE)
MEMBER (J)

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