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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 249/96

Transfer Application No.

Date of Decision

15.10.96

J.R. Pai

Petitioner/s

Applicant in person

Advocate for
the Petitioners

Versus

Controller, BARC, Bombay.

Respondent/s

Shri B.Ranganathan for Sh. J.P. Deshpande

Advocate for
the Respondents

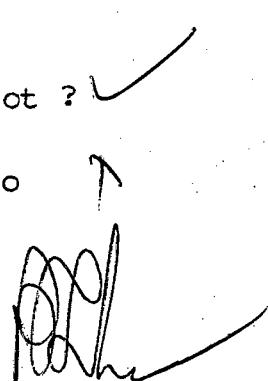
CORAM :

Hon'ble Shri. P.P.Srivastava, Member (A)

Hon'ble Shri.

(1) To be referred to the Reporter or not ?

(2) Whether it needs to be circulated to
other Benches of the Tribunal ?


(P.P. SRIVASTAVA)

MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

OA.NO. 249/96

Tuesday this the 15th day of OCTOBER 1996

CORAM: Hon'ble Shri P.P.Srivastava, Member (A)

J.Radhakrishna Pai
Laser & Plasma Technology Division,
Prip Shed, Bhabha ~~Atomic~~ Research Centre
Trombay, Bombay.

Applicant in person

... Applicant

v/s.

Controller
Central Complex Build.
Bhabha Atomic Research Centre,
Trombay, Bombay.

By Advocate Shri B.Ranganathan
for Shri J.P.Deodhar, C.G.S.C.

... Respondents

O R D E R

(Per: Shri P.P.Srivastava, Member (A)

The applicant is working in the Bhabha Atomic Research Centre since August, 1970. His date of birth in the School Certificate was mentioned as 24.4.1948 which has been so recorded in the record of the administration. The applicant submits that his correct date of birth is 24.4.1950 which came to his knowledge at a very late stage. Thereafter, the applicant approached the administration for changing his date of birth vide his application dated 12.9.1978 which is placed at 'Annexure-2'.



The request of the applicant was rejected by the administration vide their letter dated 7.2.1979 which is placed at 'Annexure-3'. The applicant again represented for change in date of birth on 30.6.1981 which was also rejected by the administration by their letter dated 11.8.1981. Thereafter, the applicant represented only on 6.10.1995 after a lapse of about 14 years for changing his date of birth. This representation was also rejected by the administration vide their letter dated 14-12-1995. Aggrieved by this rejection of the applicant's grievance, the applicant has approached to this Tribunal through this OA. for directing the respondent administration for change in his date of birth.

2. The application has been opposed by the Learned Counsel for the respondents on the ground that the claim of the applicant is belated. Firstly, the applicant should have approached the appropriate court when his application was rejected in 1978 or 1981 and the repeated representation which the applicant had made, last occasion was in 1995, do not give any claim to the applicant against the delay and latches. The Learned counsel for the respondents has submitted that the Supreme Court has considered this issue in Union of India vs. Harnam Singh, 1993 (24) ATC 92 and in view of the



ratio laid down in the above Supreme Court decision, the claim of the applicant is without any merit.

3. *Par* I find ~~lack of~~ merit in the argument of the respondents. In Para 7 of the above quoted Hon'ble Supreme Court judgement, the Hon'ble Supreme Court has observed as under :-

" It is open to a civil servant to claim correction of his date of birth, if he is in possession of irrefutable proof relating to his date of birth as different from the one earlier recorded and even if there is no period of limitation prescribed for seeking correction of date of birth, the Government servant must do so without any unreasonable delay. In the absence of any provision in the rules for correction of date of birth, the general principle of refusing relief on grounds of laches or stale claims, is generally applied by the courts and tribunals. It is nonetheless competent for the Government to fix a time-limit, in the service rules, after which no application for correction of date of birth of a Government servant can be entertained. A Government servant who makes an application for correction of date of birth beyond the time, so fixed, therefore, cannot claim, as a matter of right, the correction of his date of birth even if he has good evidence to establish that the recorded date of birth is clearly erroneous. The law of limitation may operate harshly but it has to be applied with all its rigour and the courts or tribunals cannot come to the aid of those who sleep over their rights and allow the period of limitation to expire. Unless altered, his date of birth as recorded would determine his date of superannuation even if it amounts to abridging his right to continue in service on the basis of his actual age. A public servant may dispute the date of birth as entered in the service record and apply for its correction but till record is corrected he cannot claim to continue in service on the basis of the date of birth claimed by him."



4. In view of the authoritative finding of the Hon'ble Supreme Court, I see no reason for the Tribunal to interfere in this OA. The claim of the applicant is barred by limitation in view of the observations of the Hon'ble Supreme Court in Harnam Singh's case. The OA is dismissed with no order as to costs.



(P.P. SRIVASTAVA)

MEMBER (A)

mrj.