

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.**

ORIGINAL APPLICATION NO.139/2000

Dated this Monday, the 27th Day of November, 2000.

CORAM: HON'BLE SHRI B.N. BAHADUR, MEMBER (A)

Shri Narayan Bhimrao Kamble
Scientist 'D'
Residing at: Alankar, Survey No.67/1B
Plot No.18, Vidyavanagar
Pune -411032.

..... **Applicant**

(Applicant in Person)

Vs.

1) The Director
Research & Development Establishment (Engrs)
Dighi, Pune - 411015.

2) The Secretary,
Ministry of Defence,
New Delhi - 110 001. **Respondents**

(Respondents by Shri R.K.Shetty, Advocate)

ORDER

[Per: B.N.Bahadur, Member (A)]

This is an Application made by Shri N.B. Kamble, seeking the relief from this Tribunal for correction of his Date of Birth. It is his grievance that his request to the Respondents in this regard has been rejected by the impugned Order dated 28.1.2000 (copy at Annexure I).

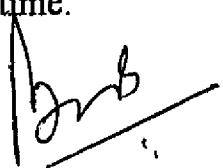
2. The case sought to be made out by the Applicant is that Applicant had forwarded a request on 25.11.1999 to the Secretary, Home Ministry, New Delhi through proper channel for the correction of his Birth Date, which



was recorded as 2nd June, 1942, on the strength of the Secondary School Certificate produced by him at the time of joining service, whereas the correct Birth date according to him is 25th September, 1942. He avers that the latter date is based on the evidence of Birth Extract issued by Tahsildar, Taluka, Sangola as evidenced from Annexure II (Page 8).

3. The Applicant goes on to discuss the reasons cited by Respondents for rejecting his request and avers that these are not bonafide or sustainable reasons.

4. The Respondents have filed a Written Statement, in reply stating that the first Application for change of such date of Birth was made by Applicant as late as on 25.11.1999, and that this came to be rejected by letter on 28.1.2000. It is averred that the Applicant is already rendered 33 years of service in Govt. since 1967, and that his case is covered by the ratio of the decision of the Supreme Court in the case of *UOI vs. Harnam Singh* [AIR 1993 SC 1367]. The Respondents then give the factual details of the case of the Applicant making the point that the date of Birth was recorded on entry in service was 2.6.1942 and that the Applicant has verified the correctness of this. No request for change was made within 5 years, and this is enough ground for the rejection of the request. In case there was any claim to be made on the basis of a Tahsildar Certificate this would have been made in due time.



5. I have heard the Applicant in person, and the Learned Counsel for the Respondents.

6. The Applicant was at pains to make the point that this is not a prayer for a change in the date of birth, and that it was only an application seeking a correction of a mistake made. The Applicant questioned the 5 years Rule, that is, the Rule which requires a Govt. Official to make a request for change in date of birth normally within 5 years and, termed it as discriminatory. He reiterated the ground taken by him in his Application to contend that Matriculation Certificate carries the Birth Date as recorded at the time of entry at the stage of elementary education and this is mainly verbal and approximate. These are not always accurate. On the other hand, dates of births as recorded as evidence should be depended upon as correct as in the instant case.

7. The Applicant took me over the copy of the Extract of Certificate issued by Tahsildar, Sangola appended by him at Annexure II and made the point that here was the case, of a State Govt. agency recording the date of Birth as 25.9.1942 and that this document should be relied upon as conclusive.

8. Learned Counsel for Respondents reiterated his stand taken in the Written Statement, and pressed the point regarding the ratio of the case decided in the matter of *Harnam Singh by Supreme Court / AIR 1993 SC*



1367]. He contended that the rules had not been challenged and also produced the Service Book reiterating the stand taken by Respondents in their Written Reply.

9. At first, it must be stated that the point regarding this being a request for correction of mistake and not for a change, rests more on semantics rather than on a legal point and it cannot be said that this will alter the scope of examination of the merits of the case. It is an admitted fact that at the time of entry into the service the Applicant undisputedly recorded his date of Birth as 2.6.1942, and that this was based on an evidence of a School Leaving Certificate. Now the main argument that the Applicant has put forth is that this kind of evidence is less dependable than the Certificate of Tahsildar now available. Importantly, even the date of issue of the copy is in 1975.

10. Now on the above argument, it is seen in the matter of *Hayagreev Sharma* [1990 (2) SCC 682] decided by Hon'ble Supreme Court, it has been decided that the Date of Birth recorded on the Service Book on the basis of School Certificate at time of entry into service should not be changed on the basis of extracts of entry contained in Birth and Death Register. This principle will apply as much to this Tahsildar's Certificate. Similarly the importance of the authentication by the Govt. servant all entries made in Service Roll has been stressed in the case of R. Mallick by



of Harnam Singh decided by the Supreme Court where in the facts and circumstances of that case the importance of belated move for change in date of Birth was discussed and decided on among other things and the point about such a change not sought within 5 years shall also discussed in favour of Government.

11. This Tribunal is, needless to say, guided by the settled law and, therefore, cannot find any reason in interfering in the matter, given the facts and circumstances of the case.

12. As a consequence, the Application is hereby dismissed. No orders as to costs.

B.N.Bahadur

(B.N.Bahadur) 27/11/2000

Member (A)

sj*