

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 348/2000.

Thursda this the 4th day of January, 2001

Coram: Hon'ble Shri B.N.Bahadur, Member (A).

Smt. Gangubai Ramchandra Jadhav,  
D/4, Military Chal,  
Tadiwala Road,  
Pune - 400 001.  
(By Advocate Shri R.C.Ravlani)

...Applicant.

Vs.

1. Union of India through  
the General Manager,  
Central Railway,  
Mumbai CST - 400 001.
2. The Divisional Railway Manager,  
Central Railway Divisional Office,  
Personnel Branch,  
Pune - 411 001.
3. The Assistant Personnel Officer,  
Central Railway Divisional Office,  
Personnel Branch,  
Mumbai (CST) - 400 001.  
(By Advocate Shri Suresh Kumar)

...Respondents.

ORDER (ORAL)

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

This is an Application made by Smt. Gangubai Ramchandra Jadhav, seeking the relief from this Tribunal, for a direction that her date of birth should be rectified as 13.5.1943. The Applicant therefore seeks the relief that her superannuation date should be changed accordingly and she should be reinstated in service with back wages/arrears etc.

B.N.B.

...2

2. The facts of the case made out by the Applicant are in a short compass. It is stated that the Applicant was provided with employment as Safaiwala in February, 1974, on compassionate grounds, in view of the sad demise of her husband, while in the service of Respondents. At the time of her appointment she had filed her School Leaving Certificate, (copy at Annexure A.2) which shows her date of birth as 1.6.1940 and her name as Bijilee (Annexure - A-2) (another copy obtained at a different date is filed at page 50). The Certificate at Annexure A.2 seems to be a copy obtained later on 17.12.1998, whereas one of which copy is filed at page 50 is issued on 30.4.1973. The name in both Certificate is Bijlee. Counsel for the applicant stated that the name had been changed after the marriage.

3. The Applicant further states that when she was informed orally that she would be retiring on attaining the age of 58 on 31.5.1998, she realised that her date of birth was wrongly ~~in~~ <sup>Ans</sup> record given in record and filed a representation dated 27.2.1998 (Annexure A.6). Learned Counsel for the Applicant made the following points in favour of the case of the Applicant.

(a) Applicant was surprised when she came to know of a wrong date of birth entered and the fact that a copy of the School Leaving Certificate was filed could not be appreciated by her as she was illiterate. She thereafter proceeded to get a certificate from the Tehsildar, a copy of which is placed at page 18 (translation at page 29). Learned Counsel drew our attention, fairly, to the fact that this Certificate mentions the birth of a male child on 13.5.1943 (i.e. the date now sought to be incorporated by modification). He, however, made the point that this was a mistake, and given the circumstances of an illiterate

Bmb  
...3.

family the discrepancy could not be noticed at that time, or later, till the question of retirement came up as explained.

4. Learned Counsel further argued this point to state that an Application in a Civil Court seeking the correction of the date of birth in the document was also filed. It was also alleged that the Representation made by the applicant was decided nearly two years after the time it was made, and had this delay not taken place she could have come to Court earlier. Learned Counsel cited a number of case laws of various Benches of this Tribunal in support of his contentions, and argued mainly the point that the Applicant had not derived any benefit at the time of entry into service through the date of birth in the Certificate filed at the time of entry. Also that the ratio of the case of UOI vs. Harnam Singh [AIR 1993 SC 1367] does not apply to the Applicant since the facts in present case were different.

5. The Respondents have filed a Written Reply where they resist the claim of the Applicant, and state that in the School Leaving Certificate submitted by the applicant at the time of entry into service, the date of birth is clearly shown as 1.6.1940. Further that the I.R.E.C. provisions envisaged that any change of birth will be sought within 3 years (Ex.R.2). It is further averred that the points raised in the representation of the Applicant have been considered carefully and the representation has been disposed by a reasoned speaking order. The point that the entry in the Tehsildar's Certificate now relied upon showed the birth of a male child (on 13.5.1943) was strenuously stressed to argue that the entry "male" cannot be a mistake.

6. Learned Counsel for the Respondents, Shri Suresh Kumar

Bub

...4.

argued the case, reiterating the points made in the Written Statement. He strongly refuted the arguments made on behalf of the applicants and argued that the position was clear in that the Applicant's School Leaving Certificate shows the date of birth to be 1.6.1940. The learned Counsel sought to put forth the point that the document now sought to be relied upon could not be the source of any strength to the applicant. Firstly, the point that the birth of a male child having been born on 13.5.1943 could not be brushed aside merely as a mistake. He sought the support of Section 19 of the Evidence Act in this regard. He also sought to interpret the dates of school joining by the applicant and her brothers from the copies of records (placed between pages 15 to 17 of the Paper Book) and said that this also shows that the argument of the Applicant had no basis.

7. I have considered carefully the argument raised on both sides and perused all the papers in the case. The case laws cited during arguments have also been considered.


8. In the first instance, it must be stated that it was only near her retirement that the Applicant has come to undertake the exercise for seeking correction in date of birth. The plea taken is that she was taken aback only when orally told that she would soon retire. (She works till 60 years, because of the raising of age of retirement of all Civil employment as a policy decision). This in itself is a point of infirmity. However, the main document that we have to examine here is the document which is relied upon for change in date of birth, a copy of which is available at page 15 (A.5) This shows the birth of a child on 13.5.1943, and the name of the father is recorded as Kishan Babaji Gangurde. It is important to note that the child is shown to be as a male child. It is difficult to accept the facile

*Bab*

...5.

argument that this was an entry made by mistake, or the argument made by Learned Counsel that name of Phulli which is the original name of the Applicant was later changed as Bijilee. The main point raised in the cases cited by Counsel for Applicant (incidentally all cases are prior to Harnam Singh's judgement) was that no benefit was derived in view of the certificate produced at the time of entry into service. This may well be true. It was also argued that in the case of Hiralal Shah (1988 (6) ATC 1995) it has been that if there is "strong evidence" to show that date of birth recorded in Service Book is wrong the representation for change in date of birth should be considered. Now in the facts and circumstances of the case discussed above, it cannot be said that there is strong evidence in the matter. The fact that nothing was done to correct the entry for for long years stares us in the face. Also, the name indicated on that Tehsildar's Certificate does not match the name on the School Certificate or name in the service rules leaves gaping holes in the evidence, let alone making it a "strong evidence".

9. The law laid down in regard to change of date of birth also envisages that modifications in the date of birth of service should not be allowed except on very strong grounds. Such strong grounds cannot be said to exist in this case. I have seen the impugned order and find that the representation has been disposed of by Respondents after full application of mind. I do not find any infirmity in the order.



...6.

10      Consequently, this Application is hereby dismissed.      No  
orders as to costs.

*B.N. Bahadur*

---

(B.N. Bahadur)  
Member (A)

sj/B.