

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO: 322/2000

DATE OF DECISION: 29/5/2000

_____ Smt Laxmibai Maruti Kamble _____ . Applicant.

Shri A.M.Joshi

----- Advocate for
Applicant.

Versus

Union of India & 2 Ors.

----- Respondents.

Shri Ravi Shetty for

----- Advocate for
Respondents.

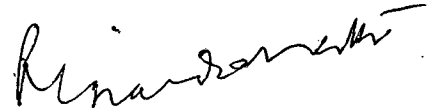
Shri R.K.Shetty

CORAM:

Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.
Hon'ble Shri D.S.Baweja, Member (A)

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to other Benches of the Tribunal?
3. Library.

} no


(R.G.VAIDYANATHA)
VICE CHAIRMAN

abp

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION: 322/2000
DATED THE 29th DAY OF MAY, 2000**

**CORAM: HON'BLE SHRI JUSTICE R.G. VAIDYANATHA, VICE CHAIRMAN
HON'BLE SHRI D.S. BANEJA, MEMBER(A)**

Smt. Laxmibai Maruti Kamble,
Residing at - 52/6, OFH Compound,
Kirkee, Pune - 411 003. ... Applicant.

By Advocate Shri A.M. Joshi

V/s.

1. Union of India,
Secretary,
Ministry of Defence,
New Delhi.
3. The Works Manager, (Administration),
Ammunition Factory,
Kirkee, Dist-Pune.
4. The Chief Medical Officer,
Ordnance Factory Board,
10-A Auckland Road,
Calcutta. ... Respondents.

By Advocate Shri Ravi Shetty for
Shri R.K. Shetty.

(ORAL) (ORDER)

Per Shri Justice R.G. Vaidyanatha, Vice Chairman.

This is an application filed by applicant for a declaration that her Date of Birth is 15/5/1942, that she is entitled to continue in service as per her correct date of birth. Learned Counsel for the Respondents orally opposed the admission of application and submits that the OA is not maintainable. We have heard Shri A.M. Joshi, Learned Counsel for Applicant and Shri R.R. Shetty for Shri R.K. Shetty on admission and interim relief.

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2.....Applicant's case is that her correct date of birth is 15/5/1942, whereas the Respondents have rejected her request for making corrections in the Date of Birth and now are intending to retire her on 31/5/2000 whereas she is entitled to continue in service for another two years more. Learned Counsel for Respondents brings to our notice that the applicant had agitated the question of date of birth in previous OA and has lost the case and therefore principles of res-judicata are attracted and the applicant cannot be allowed to agitate the same question again.

3. After hearing both sides and perusing the materials on record and the judgements of this Tribunal dated 11/3/1988 in TA No.398/86., we have no hesitation to hold that the present OA is not maintainable and the principles of res-judicata are attracted.

4. A perusal of the said judgement shows that applicant filed a Regular civil Suit No.956/86 before the Civil Judge, Senior Division, Pune for identical relief of declaration of date of birth which was later transferred to this Tribunal. After hearing both sides, this Tribunal held that applicant has not made out a case for changing the correct date of birth and therefore the suit which was registered as Transfer Application came to be dismissed.


5. Now the applicant cannot be allowed to agitate the same question about her correct date of birth. In the previous OA she alleged that her correct date of

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birth was 15/5/45 and now she is alleging that the correct date of birth is 15/5/1942. In our view, the applicant cannot be allowed to agitate for identical relief of declaration of correct date of birth once again by filing the present application. Learned Counsel for the applicant submitted that notwithstanding the judgement in the previous OA, in the pay bills issued subsequently also, the applicant's date of birth is shown as 15/5/1945 and therefore the applicant can agitate the question again. It may be that by mistake or otherwise the original date 15/5/1945 was continued for number of years but even now the applicant does not say that 15/5/1945 is correct date of birth but now she wants to say that the correct date of birth is 15/5/1942. There can be no estoppel if there is a mistake; after considering the judgement rejecting the claim of the applicant for change of date of birth, the present application cannot be admitted as the prayer is same, only the change of date of birth is 15/5/1942 instead of 15/5/1945 in the earlier OA and this application is also barred by principles of res-judicata.

6. In the result, the OA is dismissed at admission stage. There will be no orders as to costs.


(D.S. BAWEJA)
MEMBER (A)


(R.G. VAIDYANATHA)
VICE CHAIRMAN

abp.