

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO: 337/2001

the 3rd day of OCTOBER, 2002

CORAM: Hon'ble Shri S.L.Jain, Member (J)

Dr. M.Venkateswarlu,
Dy.Drugs Controller (India),
Central Drugs Standard Control
Organisation, Directorate General of
Health Services,
Government of India,
West Zone, CGHS Dispensary Building,
1st Floor, Kane Nagar,
Mumbai.

...Applicant

By Advocate Shri Sai Kumar

Versus

1. Union of India
through the Secretary,
Government of India,
Ministry of Health and
Family Welfare, Nirman Bhavan,
New Delhi 110 011.
2. The Director (ASV),
Directorate General of Health
Services, Government of India,
Nirman Bhavan,
New Delhi - 110 011.
3. Dy.Director (Admn.) (Drugs),
Directorate General of Health
Services,(New Drugs Section),
Government of India,
Nirman Bhavan, New Delhi.

...Respondents

By Advocate Shri V.G.Rege

O R D E R

{Per S.L.Jain, Member (J)}

This is an Application under Section 19 of the
Administrative Tribunals Act, 1985 to quash and set aside letter
dated 20.5.1999 with the direction to the Respondents to alter
the recorded date of birth in the Service Record from 15.7.1947
to 2.11.1948.

SLJ

2. The Applicant has filed this O.A. in the Tribunal on 18.4.2001 along with the delay condonation application. The delay is sought to be condoned on the ground that letter dated 20.5.1999 was received by the Applicant on or about 31.5.1999. The reply was vague, did not disclose any reason, the Applicant was contacting the Delhi Authorities, his superiors in the Ministry to reconsider the matter, the Applicant was assured by his superiors that they would look into the matter. Being senior officer he thought that he should not rush to the Tribunal hoping that the authorities would grant his reasonable request. The Applicant has still 7 to 8 years left in service. By the nature of duties, the Applicant is required to go on tour from time to time being the Head of the Office in West Zone and busy with official duties, as such could not find time to take steps for the purpose of filing OA and contacting a lawyer to discuss and decide about the filing of the OA.

3. The Applicant has placed on record letter dated 28.2.1994 Annexure-A 21 (OA page 49) which is extracted below by which the matter was once concluded by the Respondents.

" No.A.12019/5/85-D(Part)
Directorate General of Health Services
(Drugs Section)

New Delhi
Dated the 28/2/94

To,

The Asstt.Drugs Controller (India),
New Customs House,
Annexe Ballard Estate Fort,
Bombay - 400 038.

Sub: Change of date of birth of Shri M.Venkateshwarlu,
Drugs Inspector, CDSCO, Madras (South Zone) and
New Asstt.Drugs Controller (India), Bombay.

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Sir,

I am directed to refer to your letter No.12019/5/85-D (Part), dated 2nd November, 1993, on the subject mentioned above and to say that your request for change of date of birth from 15.7.1947 to 02.11.1948 was considered in this Directorate. However, it is regretted to inform that the same cannot be acceded to in the light of recent judgment given by the Supreme Court.

The original Certificates/documents forwarded along with your above referred letter are returned herewith.

Yours faithfully,

Sd/-
(CHANDER BHAN)
DEPUTY DIRECTOR ADMN. (DRUGS)"

4. Thereafter, the Applicant again represented/opened the matter vide letter dated 21.4.1994 (Annexure A 22) (OA page 50) followed by reminder dated 5.5.1994 (Annexure A 23) (OA page 51), which was ^{replied} vide letter dated 22.2.1994 Annexure A 24 (OA page 52), in compliance of the same the Applicant submitted the detailed information vide letter dated 5.7.1994 Annexure A 25 (OA page 53), followed by reminder by the Applicant dated 27.7.1994 Annexure A 26 (OA page 55), the correspondence of letters dated 5/6.10.1994 Annexure A 27 (OA page 56), reply by the applicant vide Annexure A 28 dated 12.10.1994 (OA page 57), reminder by the applicant dated 29.11.1994 Annexure A 29 (OA page 58), 8.2.1995 Annexure A 30 (OA page 59), 26.4.1995 Annexure A 31 (OA page 61), 15.11.1996 Annexure A 32 (OA page 62) which resulted in passing the impugned order dated 20.5.1999 Annexure A 1 (OA page 24).

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5. The Applicant joined Government service in 1974 as Drug Inspector. His date of birth was entered in Service Record 15.7.1947. He claims that his date of birth is 2.11.1948.

6. The Applicant applied to Municipality Kovvur in Andhra Pradesh for the date of birth in 1981, after obtaining the same, approached the Ist Additional District Munsif by filing a suit on 9.7.1982 against Andhra University which was decided on 21.2.1983. Thereafter the said University changed the date of birth to 2.11.1948 on 20.10.1984. Andhra Pradesh Govrnment was also moved on 29.9.1987 for the said change of birth in other educational records which was done on 28.12.1987. Thereafter the Applicant for the first time on 24.4.1985 vide Annexure A 8 applied for change of date of birth which after the correspondence between the parties was decided vide letter dated 20.2.1994 Annexure A 21 (OA page 49).

7. The learned counsel for the Applicant relied on 1992 SCC (L&S) 78 Director of Technical Education and another Vs. Sitadevi which lays down the proposition that the suit filed against Board/University for alteration of date of birth in Matriculation Certificate - But the state not made a party-held-decree against Board /University which issued the the Matriculation Certificate not binding on the Government. It can be only treated as piece of evidence. I am in agreement with the said propostion of law and arrive to a finding that the decision of Ist Additional District Munsif in which the Government/State was not a party, is not binding on the Government and can be treated only a piece of evidence.

8. S.S.Rathore Vs. State of Madhya Pradesh, (AIR 1990 SC 10) lays down the proposition that the cause of action shall be taken to arise on the date of order of higher authority disposing of representation. Repeated unsuccessful representations not provided by law do not enlarge the period of limitation.

9. The perusal of Section 9 of the Limitation Act, 1963 makes it clear that when cause of action accrues to the Applicant on 26.2.1994 Annexure A 21, the subsequent representation of the Applicant, the action taken on the said representation by the respondents would not enlarge/extend the period of limitation for agitating the dispute before the Tribunal. Merely on the basis of the facts that respondents further thought it proper on the representation of the Applicant to consider the matter, the date of the decision in pursuance of the same cannot be a date of cause of action for the Applicant to pursue the remedy.

10. Vague allegation in MP for delay condonation without further details - contacting the Delhi authorities, superiors to reconsider the matter, assurance, on account of busy duties could not take the steps for the purpose of filing of OA and contact a lawyer to discuss and decide about filing of OA, in my considered opinion cannot be a sufficient ground for condoning the delay. Similarly - period of 7 to 8 years left in service also, cannot be a ground to consider the matter on merit.

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11. As there are no sufficient grounds to condone the delay commencing from 28.2.1995 till 18.4.2001, OA is hopelessly barred by time, deserves to be dismissed as such and is dismissed accordingly with no order as to costs.

SLJ
(S.L.Jain)
Member (J)

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