

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing: 12/12/89
Date of Hearing: 13/12/89

Registration No. 337 of 1989(4)

Deputy Registrar(I)

APPLICANT(S) Bhawa Sagar
RESPONDENT(S) Union of India & others

Particulars to be examined	Endorsement as to result of examination
1. Is the appeal competent ?	Yes
2. a) Is the application in the prescribed form ?	Yes
b) Is the application in paper book form ?	Yes
c) Have six complete sets of the application been filed ?	4 sets filed
3. a) Is the appeal in time ?	Yes
b) If not, by how many days it is beyond time ?	—
c) Has sufficient case for not making the application in time, been filed ?	—
4. Was the document of authorisation/ Vakalatnama been filed ?	Yes
5. Is the application accompanied by B.D./Postal Order for Rs.50/-	Yes
6. Has the certified copy/copies of the order(s) against which the application is made been filed ?	Yes
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	Yes
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	—
c) Are the documents referred to in (a) above neatly typed in double space ?	Yes
8. Has the index of documents been filed and paging done properly ?	Yes
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application ?	Yes
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal ?	—

<u>Particulars to be Examined</u>	<u>Endorsement as to result of examination</u>
Application/duplicate copy/separate copies signed ?	Yes
12. Are extra copies of the application with Annexures filed ?	Yes
a) Identical with the Original ?	Yes
b) Defective ?	—
c) Missing in Annexures	—
When presented ?	—
13. Have the file size envelopes bearing full addresses of the respondents been filed ?	—
14. Is the given address the registered address ?	—
15. Do the names of the parties appearing in the copies tally with those indicated in the application ?	Yes
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?	—
17. Are the facts of the case mentioned in para no. 6 of the application ?	Yes
a) Concise >	Yes
b) Under distinct heads ?	Yes
c) Numbered consecutively	Yes
d) Typed in double space on one side of the paper ?	Yes
18. Have the particulars for interim order prayed for indicated with reasons ?	—
19. Whether all the remedies have been exhausted.	Yes

Finish/

(P)

(A)

Date of order	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
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Hon'ble Mr. D.K. Agrawal, J.M.

Hon'ble Sri Mohd. Ilyas, learned counsel for the applicant.

Admt. Issues notice to the Respondents to file their Reply within 6 weeks. Rejoinder, if any, may be filed within 3 weeks thereafter. List for 13.2.1990 for orders / hearing, as the case may be.

As far as interim matter is concerned, I am satisfied that no case for interim relief is made out and, therefore, the prayer for interim relief is rejected.

J.M.

11/4/90
Hon. Mr. P.S. Habib Mohammed, A.M.
Hon. Mr. J. P. Sharma, J.M.

The LC for the applicant
file an amendment application.
Shri B.A. Shankar, wants 4 weeks
time to file objection, allowed.

List for orders on 16/8/90

J.M.

A.M.

MP No 450 to
452/90 filed for

OR
No objection filed 2/7
on amendment application

LC for the applicant has filed
MP 450/90 for interim relief, MP
451/90 for early hearing & MP 452
90 for additional documents.
Submitted for order

29/6

16.8.90

Mr. Mr. P. Srinivasan, ...
Hon. Mr. C.P. Sharma, ...

Shri Mohd. Ilyas for the applicant.
Shri S.M. Shukla for the respondents.

N.P. 236/90 has been filed by the applicant to amend the prayer in the O.A. The N.P. is allowed and the applicant will carry out the amendment in O.A. within 15 days from today.

2. In N.P. 450/90 the applicant, who has been retired from service with effect from 31.12.89, seeks provisional pension from 1.1.90 equal to the monthly pension which is normally due to him. We direct the respondents to determine the provisional pension payable to the applicant and to disburse it/the applicant within two months from the date of receipt of this order subject to the applicant's fulfilling all the required formalities in this regard.

3. N.P. 451/90 has been filed by the applicant for early hearing of the case. Shri Shukla complains that he does not have ^a copy of O.A. Shri Ilyas undertakes to furnish a copy of the application to Shri Shukla within a week. Thereafter, at the request of Shri Shukla, permission is granted to the respondents to file reply within six weeks. The applicant may file rejoinder, if he so desires within two weeks thereafter. *The applicant may thereafter move for early hearing*

4. N.P. 452/90 filed by the applicant to add one document to the application as annexure A-10 is allowed.

5. All the N.P.s listed above are disposed of accordingly.

Call on 17.10.90 before Deputy Registrar for *up &*
rejoinder

P/16/8

...

OK
App. mul. in
proced. in
person now
forwarded
to Counter
has been bld
P.D. 17/10/90
D.R. 17/10/90
17/10

*Amendment made
+ carry
17/10*

*copy received
for Mr. B.K. Thakur
17/10/90
J.R.*

5

17/11/90

12

Respondent's

Col. Counsel Sir B K
Shukla is present
He closes time to
file counter.

He may file
counter reply
by 30.11.90.

6

22/10/90

30.11.90

L B K. Shukla

Id. Counsel for
respondent is
present. Put up

on 8.1.91 for
file counter

21/12

7

5th Nov 1990
at 10.30 AM
in the presence of
the learned counsel
for the respondent
Shri B K Shukla
who has put up
his case for
the respondent.

8

6.3.91 Applicant -

has moved an
application for
ex parte hearing

Respondent failed
to file counter today
even put up this case
with the Honble Bench

10.12.90
10.12.90
10.12.90

(3)

(A9)

on 14.3.91 for
order in the
application
dated 6.3.91. Respondent
may file
counter by 14.3.91

noted
(B.K. Shukla)
Adm.
6.3.91

6.3-91

(9)

14.3.91

No staying adj to 24.4.91
J

(10)

24.4.1991

Hon. Mr. D.K. Agrawal, J.M.
Hon. Mr. K. Obayya, A.M.

Sri.M. Ilyas for the applicant.

None for the respondents. Counter affidavit
has not been filed despite opportunity. The
applicant has filed A.P. 108 of 1991 for
ex-parte proceedings. Copy of this application
has been served on the counsel for the
respondents on 6.3.1991. We, therefore, order
that the case shall proceed ex-parte hearing.
List it for ex-parte hearing on 6.3.1991.

J
A.M.

J
J.M.

(n.u.)

Before signing the order, Sri B.K. Shukla
appeared on behalf of the respondents and
filed counter affidavit today. Copy has
already been served on the counsel for
applicant. Rejoinder affidavit, if any, may be
filed within 2 weeks thereof. List this case
on 6.3.1991 as already fixed.

J
A.M.

J
J.M.

(n.u.)

(11)

6.8.91

No sitting adj to 16.8.91.

d

No RA h/c?

(12)

16.8.91
D.R.

Applicant is present
He files Reply
today. Hence, this case
is ready for final
hearing and listed
before the Hon. Bench
on 13/9/91.


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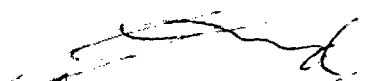
(13)

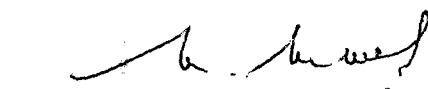
13.9.91

No sitting adj to 24.10.91.

24.10.91.

None present for the Applicant.
Mr. B.K. Shukla Counsel for the Respondents,
On the prayer of the learned counsel
for the respondents, may be listed for
hearing on 16/12/91.


(S.N. Prasad)
Member (Judl.)


(Kanshu Kumar)
Vice Chairman.

16.12.91

No sitting adj to 2.2.92
ex

7.2.92

No sitting adj 17.2.92
A

17.2.92

Hon. Mr. S. N. Prasad J.M.
On the application of Sri B.K. Shukla C/Respondents,
List this case for final
hearing on 25.2.92.

J.M.

25.2.92

Hon. Mr. S. N. Prasad J.M.

case called out. Sri M. gyan
learned counsel for applicant, Sri B.K.
Shukla learned counsel for respondents.
During the course of argument it
appears that the service record of the
applicant for career decision ^{if this can be established} learned
counsel for respondents as directed
to produce service record of the appli-
cant on the next date.

List this case for hearing on
23.3.92

J.M.

CA and RA have
been exchanged
Submitted for hearing
SPM
23.3.92

23.3.92 Hon. Mr. S. N. Prasad J.M.

case called out several
times at intervals. Now reports
on behalf of either of the
parties. But if a genuine file is
submitted.

J.M.

23.3.92

Hon Mr S.N. Prasad, J.M.

Case called out again after lunch. None responds on behalf of either of the parties despite repeated calls at intervals. This is an old case and requires speedy disposal.

list this case for hearing on 25-3-92

or
CA RA have been
exchanged. Case is
ready for hearing
SAH
23.3.92

J.M.

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25-3-92

Hon Mr S.N. Prasad, J.M.

Case called out. Shri Mohd Aliyar learned counsel for the applicant and Shri B.K. Bhutla learned counsel for respondents are present. Arguments heard. Judgment reserved.

J.M.

Received.
Service record
26.3.92

Hon Mr S.N. Prasad J.M.

Judgment pronounced today separately

J.M.

(R)

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

C.A. No. 337/89(L)

Blawa Sager

Applicant

versus

Union of India through General Manager,
N.E. Railway, Gorakhpur.

2. Divisional Railway Manager(P)
N.E. Railway, Ashok Marg, Lucknow. Respondents.

Shri M.D. Ilyas	Counsel for Applicant.
Shri A.K. Shukla	Counsel for Respondents.

Hon. Mr. S.M. Prasad, Member Judicial.

Applicant has approached this Tribunal under section 19 of the Administrative Tribunals Act, 1985 with the prayer for a declaration to the effect that the date of birth of the applicant is 1.1.1937 and the date of birth recorded in the service record of the applicant is wrong and should be corrected accordingly, and for further direction to the respondents not to retire him on 31.12.89 and in case if he is retired, he be reinstated in service with all consequential benefits till the age of superannuation treating his date of birth as 1.1.37.

2. The facts of the case, briefly stated, inter alia, are that the applicant was initially appointed as Khalasi Group D on 4.1.1955 and with gradual promotions he has been working in the capacity of P.C.M.-I under the Chief Telecommunication Inspector, Telephone Exchange,

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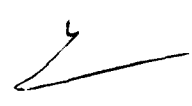
N.S. Railway, Azbok Marg, Lucknow. According to the applicant, his date of birth is 1.1.37, according to his school leaving certificate which is accompanied by his affidavit (as exhibit A-1 to the application). As per para 145 (3) (III) of the Indian Railway Establishment Code, Volume I (vide Annexure A-3 which is photo copy thereof) and which was amended vide advanced correction slip No. 303 and which was circulated vide Railway Board's letter on 3.12.71 which required that request for alteration of date of birth should not be entertained after completion of probation period or three years whichever is earlier. The Railway Board extended an opportunity to railway servants who were already in employment and who did not take advantage of the provisions of rules regarding alteration of date of birth as it said before the said amendment to represent against the recorded date of birth upto 31.7.73. Pursuant to the directives of the Railway Administration contained in Annexure A-4 to the application, the applicant submitted his application dated 4th April, 1973 to the General Manager, N.S. Railway, Gorakhpur through proper channel (Vide Annexure A-5 which is a copy thereof), and since that was the special drive by the Railway Administration to alter the date of birth of willing employees and since no refusal in the case of the applicant was communicated to the applicant, it was believed by the applicant in good

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faith that the request for alteration of his date of birth as 1.1.37 instead of 1.1.32 has been made in his service records. At the beginning of the year 1989 it was revealed to the applicant that his application dated 14.4.73, as referred to above, was not acted upon and his date of birth remained unaltered and the applicant shall be retired on 31.12.1989; the applicant submitted appeal (representation) dated 14.6.89 addressed to the General Manager, endorsing a copy thereof to the Chairman, Railway Board (vide Annexure A-6) but the respondent No. 2 vide order dated 4.12.89 (Annexure A-6(B)) rejected the prayer of the applicant, who was not the competent authority, illegally, without considering all pros and cons of the matter and the extant rules and orders of the Railway Board. The applicant has further state that there are instances viz. the date² of birth of S/Shri Wali Kulkarni, Ex Waiting Room Bearer, Sitapur, Shaukat Ali, P.I. Mistri Gode, Rameshwar Driver 'A' (SPL) Loco Shed, Corakpur have been altered even after their retirement and as such the date of birth of the applicant should also be altered in accordance with his date of birth as entered in his School Leaving Certificate (Annexure A-2) as 1.1.37.

3. The respondents in para 4(VII) of their Counter Reply have denied the receipt of any such application dated 4.4.73 alleged to have been submitted to General Manager, Corakpur as mentioned in para 4(VII) of the



application; and it has further been contended that if the applicant did not receive any reply to his original application dated 4.4.73, then the applicant should have submitted reminders in this regard but the applicant remained silent for long period of time and submitted application dated 14.6.89 just a few months before the date of his retirement i.e. 31.12.89.

It has further been contended that seniority list of the applicant alongwith ^{the names of} his co-workers was published from time to time showing therein the date of birth of the applicant as 1.1.32, but the applicant never raised any objection about his date of birth as entered in his service book as "1.1.32" and this application has been moved on the verge of retirement only with a view to derive undue advantage. It has further been contended that the representation (Appeal) of the applicant has been correctly and validly ~~been~~ rejected as per order dated 4.12.89, as referred to above, and as such the application of the applicant is liable to be dismissed and the applicant cannot derive any advantage on the basis of the so called School Leaving Certificate and as such the applicant is not entitled to any relief.

4. The applicant has filed Rejoinder Affidavit wherein he has reiterated almost all those very points as mentioned in the application.

5. I have heard the learned counsel for the parties and also perused the service record of the applicant which has been produced by the learned counsel for the respondents.

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6. The learned counsel for the applicant while drawing my attention to the circular of Railway Board dated 4.8.72, copy whereof is Annexure A-4, has argued that pursuant to the aforesaid circular of the Railway Board, the applicant had submitted an application dated 4.4.73 which was received by the official concerned on 6.4.73 as would be obvious from the perusal of Annexure A-5, and has further argued that it was obligatory on the part of the respondents to apprise the applicant of the result of the above application dated 4.4.73 but the respondents did not make any communication in regard thereto, and since that was special drive, the applicant in good faith believed that his prayer for alteration of his date of birth has been accepted and necessary correction has been made in his service record, and has further argued that since the respondents did not communicate the result of the aforesaid application of the applicant it shall be inferred that the respondents are at fault; and has further argued that in case the application of the applicant is still pending, a suitable direction be given to the respondents to decide the same ~~very~~ ^{^2} ~~application~~ ^{^2} from proper perspective, and has further argued while adverting to the School Leaving Certificate (Annexure A-5/2) that since the date of birth of the applicant has been recorded as 1.1.37 in the School Leaving Certificate, his date of birth which has ^{wrongly} been recorded as "1.1.32", should be altered as 1.1.37 and as such the impugned order dated 4.12.89 whereby

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representative/ the applicant regarding correction of his date of birth has been rejected, being illegal and invalid, be quashed and the applicant should be given the reliefs sought for.

7. The learned counsel for the respondents, while drawing my attention to the aforesaid School Leaving Certificate and all other papers annexed to the application, has argued that no application of the applicant was received and as such the question for deciding the same does not arise; and has further argued while drawing my attention to the papers contained in the service record of the applicant that the date of birth of the applicant was correctly recorded as "1.1.32" in his service record; and has further argued that in the seniority list which was circulated in the year 1978 also the date of birth of the applicant was shown as 1.1.32 but the applicant did not raise any objection and did not submit any application for correction of his date of birth, and has further argued that with a view to derive undue advantage the applicant moved ^{his} application only a few months before his retirement on 14.6.89, and has further argued that the School Leaving Certificate is of no avail to the applicant, in as much as it shows that the applicant had passed Class V in the year 1951 and at that time his age has been shown as 14 years and had this School Leaving Certificate been with the applicant

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in the year 1951, he should have produced the same at the time of his appointment which took place in the year 1955, but, for the reasons best known to him he did not do so and as such adverse inference be drawn against the applicant; and has further argued that the application of the applicant was rejected by the competent authority properly and validly as per order dated 4.12.1989 and as such the application of the applicant should be dismissed.

8. A perusal of the service record of the applicant shows that the seniority list of the applicant was circulated in the year 1978 showing his date of birth as 1.1.32; but the applicant did not raise any objection about his date of birth. It is also important to point out that a perusal of the Leave Account maintained by the respondents from the year 1955 to 1965 also shows that his date of birth is "1.1.32." This fact should not be lost sight of that assuming this that the applicant had submitted an application dated 4.4.73 and in case no communication/intimation was made to the applicant by the respondents about the result of that application for change of his date of birth as 1.1.37, this was obligatory on the part of the applicant to send reminders or to ascertain about the result of his representation regarding alteration of his date of birth as 1.1.37 instead of 1.1.32; but ~~the~~ for the reasons best known to him, he remained silent for a long period of about 15 years

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AK

and from the scrutiny of the material on record it becomes obvious that the applicant submitted his representation dated 14.6.89 to the General Manager, N.E. Railway, Gorakhpur just about 5½ months ^{before the} ~~of his~~ ^{his} scheduled time of retirement in accordance with his date of birth as entered in his service record as 1.1.32 and this circumstance also goes against the applicant.

9. This is also significant to point ^{out} ~~that~~ the perusal of the School Leaving Certificate (Annexure A-5/2) purports to show that the applicant had passed Class V in the year 1951 and his name was struck off the roll on 9.5.51, and thus it is manifest that the School Leaving Certificate might be available with the applicant at the time of his appointment ^{the} in year 1955, but for the reasons best known to the applicant the aforesaid School Leaving Certificate was not produced before the Officer/authority concerned at the time of his appointment and this circumstance also goes a long way in hitting hard the version of the applicant regarding his ^{alleged} date of birth as 1.1.32.

10. Thus, from the foregoing discussions and after scrutinising the entire evidence and material on record and keeping in view the circumstances of the case I find that the above arguments of the learned

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counsel for the applicant are devoid of force and weight, whereas the above arguments of the learned counsel for the respondents are found to be sound and tenable. Consequently, I find no merit in the application of the applicant and the application of the applicant is accordingly dismissed with no order as to costs.


26.3.92
Member Judicial.

Shakeel/

Lucknow: Dated 26-3-92.

12/12/04

Application under Section 19 of the Administrative Tribunal
Act 1985.

O.P. No. 337/89(2)

Bhawa Sagar ... Applicant
Versus

Union of India (W.T. Railway) ... Respondent

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4.	Annexure A-3 - True copy of extract of Para 145 R-I.	- 12	13
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Dated: 12th December, 1989

Applicant

12/12/89

Not a valid signature

A17 ①

Date of filing	12/12/89
Registration No.	337/89(L)

In the Central Administrative Tribunal, Lucknow.

Bhawa Sagar S/o Shankar B/o H.No. 1/341, Viram Khand,
Gomti Nagar Colony, Lucknow employed in the capacity of
T.C.M. Highly skilled Grade I under Chief Telecommunication
Inspector, Telephone Exchange, N.E. Railway, Ashok Marg,
Lucknow.

... Applicant

VERSUS

1. Union of India through General Manager, North Eastern
Railway, Gorakhpur.
2. Divisional Railway Manager (P), N.E. Ry. Ashok Marg, Lucknow.

... Respondent

Details of Application.

1. Particulars of orders against the application is made.

Declaration of date of Birth and alteration in
the recorded date of superannuation. ~~No specific order.~~
D.R.M.(P), Lucknow Letter No E/11/PC/Bhawa Sagar/89 dt. 4-12-89 Contained in
Annexure A-6B.

2. Jurisdiction of the Tribunal.

The applicant declares that the subject matter of
the order against which he wants redressal is within
the jurisdiction of Tribunal.

3. Limitation.

The applicant further declares that the application
is within the limitation period prescribed in Section 21
of the Administrative Tribunal Act 1985.

4. Facts of the case.

(1) That the applicant was appointed on N.E. Railway
on the post of Khalasi (Group D) on 4th January 1955.

भवसागर

Contd.....(2)

Further he was promoted to various next higher grades from time to time. At present he is working in the capacity of T.C.M.-I under the Chief Telecommunication Inspector, Telephone Exchange, N.T. Railway, Ashok Marg, Lucknow.

(ii) That the age of superannuation of the Railway employees is 58 years which is determined on the basis of the Date of Birth recorded in the service records. The recorded date of birth of the applicant in his service record is 1st. January 1932. Accordingly the date of superannuation of the applicant is 31st. December 1989.

(iii) That the Date of Birth of the applicant was recorded in his service record erroneously as 1st. January 1932 without any basis ^{of proof of age} and in arbitrary manner and needed alteration. The authentic Date of Birth of the applicant is 1st. January 1937 on the basis of School Certificate. Accordingly the Date of Superannuation of the applicant shall fall on 31st. December ~~1989~~ 1994. Annexure A-2 is true copy of the School Certificate duly proved by Affidavit contained in Annexure A-1.

(iv) That Indian Railway Establishment Code volume I is framed by President in exercise of Powers conferred on him under proviso to Article 209 of Constitution of India. The Para 145 of the said Code deals with the date of Birth of the Railway servant. In the terms of Para 145 (3)(iii) of the aforesaid Code it is open to the General Manager to cause the date of birth to be altered, where a satisfactory explanation (which should ordinarily be submitted within a reasonable time after joining the service) of the circumstances in which a wrong date of Birth came to be entered is furnished by the Railway

Contd. (3)

MS

servant concerned. Annexure A-3 is true copy of the extract of Para 145 of the said Code.

(v) That the Para 145(3)(iii) of the aforesaid Code contained in Annexure A-3 was amended vide Advance Correction Slip No. 303 which was circulated vide Railway Board on 3-12-1971 which requires that request for alteration of date of Birth should not be entertained after completion of the Probation period or three years whichever is earlier.

(vi) That the Railway Board extended an opportunity to Railway Servants who were already in employment and who did not take advantage of the provision of the rules regarding alteration of Date of Birth as it stood before the said amendment to represent against their recorded Date of Birth upto 31-7-1973 vide their letter No. (NG)11-70BR-1 dated 1-8-1972 circulated vide G.M.(P)/GKP No. 3/71/1(iv) SN2596 dated 21-8-1972. Annexure A-4 is content of the said Circular.

(vii) That pursuant to the directives of the Railway administration contained in Annexure A-4 regarding alteration in the recorded date of birth of the Railway employees, the applicant submitted his application dated 14th April 1973 to the General Manager, Gorakhpur through Proper Channel (T.C.I./IJN). Annexure A-5 is true copy of the said application.

(viii) That it was a Special Drive by the Railway Administration to alter the Date of Birth of the willing employees and no refusal in the case of the applicant was communicated to him, it was believed in good faith that the request of the applicant contained in Annexure

Contd. . . . (4)

Handwritten signature

A-5 was accessed to.

(ix) That at the beginning of the year 1989 ~~Annexure~~ it was revealed to the applicant that his application dated 4th April 1973 contained in Annexure A-5 was not acted upon and his date of Birth remain unaltered and the applicant shall be retired on 31st. December 1989. So the applicant submitted an appeal dated 14-6-1989 addressed to the General Manager endorsing a copy of the same to the Chairman, Railway Board. Annexure A-6A is true copy of the said appeal. The Respondent No. 2 instead of processing the said appeal dated 14-6-1989 to the General Manager the competent authority, himself passed an illegal order dated 1-12-1989 contained in Annexure A-6B without jurisdiction.

(x) That statutory provision exists to consider the ^{application dated 4/4/73 contained in Annexure A-5 and} appeal dated 14-6-1989 contained in Annexure ^{A-6A and A-6B} ~~5~~ by the General Manager under the provision of Section 22(3) of the Railway Servant (Discipline and Appeal) Rules 1968 framed by the President in exercise of powers conferred on him under proviso to Article 307 of Constitution of India but the ~~xxx~~ said appeal was not acted upon ^{by the Competent Authority, the General Manager} ~~within six months of its filing~~ and the applicant shall be forced to retire on 31st. December 1989.

(xi) That the Railway Board vide their letter No. 3(WG)-86-BR-7 dated 13-10-1986 circulated vide G.M.(P), Gorakhpur letter No. 2171-3/11/1(iv) dated 11-2-1987 have further directed that the representation for alteration in the recorded date of Birth received from the staff should be examined on merit on the light

of extant rules. But the aforesaid directive is violated in the case of the applicant. Annexure A-7 is true copy of the said directive.

(xii) That precedences are there that the date of birth of Railway employees have been altered at the nick of their retirement or after retirement. A few cases are cited below. These cases are not exhaustive but illustrative :-

(1) Sri Wali Mohd. Ex. Waiting Room Beamer Sitapur.

His date of Birth was altered after 18 months of his retirement and he was re-instated in service vide D.R.M.(P) Ticknow Office Order No. 3/PG/W.Mohd dated 3-2-1982 read with G.M.(P)/GKP No. 3/71/11(ix) loose dated 21/25-12-1981 on the basis of School Certificate. Annexure A-8 is true copy of the aforesaid letter.

(2) Sri Shankat Ali T.I. Mistry, Gonda.

His date of Birth was altered at the nick of his retirement vide G.M.(P)/GKP letter No. 3/71/71(ix) loose dated 18-12-1981 on the basis of School Certificate. Annexure A-9 is true copy of the said letter.

(3) Sri Ramashwar Driver A(Spl.), Toco Shed, Gorakhpur

His date of Birth was altered after 16 months of his retirement on the basis of School Certificate. He was retired on 28-2-1985 and he was re-instated during June 1987. Annexure A-1 is an affidavit supporting the aforesaid facts.

(xiii) That on the basis of School Certificate the Date of Birth of applicant is 1st. January 1937 and he should be retired on 31st December 1991. But on the basis of recorded date of Birth, the applicant shall be forced to retire ^{premature} on 31st. December 1989.

Handwritten signature

Contd.....(6)

(xiv) That it will be in the interest of justice to declare that the date of Birth of the applicant as 1st. January 1937 and his date of retirement will be 31st December 1991 in place of 31st. December 1989.

5. Grounds of relief with legal provision.

On the basis of the facts mentioned in Para 4 of the application, the applicant is entitled for the relief on the followings amongst other grounds :-

- (a) because the directives of Railway Board contained in Annexure A-1 are violated.
 - (b) because there is a clear discrimination of Article 14 of the Constitution of India as much as the date of Birth of S/Sri Wali Mohd., Shankat Ali and Ramashwar contained in Para 4(xii) of the application were altered on their representation. But no such heed has been paid on the appeal of the applicant.
 - (c) because the statutory provision U/S 22(3) of the Railway servant (Discipline and Appeal) Rule 1968 are violated as the application dated 4th April 1973 and appeal dated 14th June 1989 contained in Annexure A-5 and A-6A respectively were not considered and just and equitable decision was not taken.
 - (d) because the date of Birth is valuable right which may not be ignored on pick and choose basis.
 - (e) because the respondent No.2 has passed an illegal order dt. 4.12.89 contained in Annexure A-6B without jurisdiction.
6. Details of remedy exhausted.

The applicant declares that he has availed of all the remedies available to him under the relevant service rules etc.

अग्रिम

Contd. (7)

(1) Application dated 4th April 1973 to the General Manager Gorakhpur contained in Annexure A-5.

(2) Appeal dated 1st June 1989 addressed to the General Manager Gorakhpur copy endorsing to the Chairman Railway Board New Delhi contained in Annexure A-6A

7. Matter not previously filed or pending before any court of law.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit regarding the matter in respect of which this application has been made by any court or any other authority or any other Bench of the Tribunal nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought.

In view of the facts mentioned in Para 6 above the applicant prays for the following reliefs :-

(a) Declaring that the date of Birth of the applicant is 1st January 1937 (01-01-1937) and that the date of Birth recorded in the service record of the applicant is wrong and should have been corrected.

(b) Commanding the respondent not to retire the applicant on 31-12-1989 and struck out the order dated 4-12-1989 contained in Annexure A-6B, before 31st December 1991 (31-12-1991). *and not to retire the applicant*

(c) Any other relief which it is deemed just and proper in the circumstances of the case.

9. Interim order of any prayed for.

Pending final decision on the application the applicant seeks the following Interim Relief :-

*Account
of 16.2.90
Dated 16.2.90
K. J. J.
17/4/90*

724

(a) Directing the respondent temporarily not to retire the applicant on 31-12-1989.

10. Not applicable.

11. Particular of Postal Order in respect of Application No.

(1) No. of Indian Postal Order. 02-411166

(2) Name of Issuing Post Office. Aminabadi Lucknow

(3) Date of Issue of Postal Order. 12.12.1989

(4) Post Office at which Payable. Allahabad.

12. List of enclosures.

As per given details in the Index of the application.

Date: 12-12-1989

भवसागर
Applicant

VERIFICATION

I Bhawa Sagar S/o Sri Shanker aged 53 years employed as T.C.M. Grade I under the Chief Telecommunication Inspector, Telephone Exchange, N.F. Railway, Ashok Marg, Lucknow B/o H.No. 1/341, Viream Khand, Ganti Nagar Colony, Lucknow do hereby verify that the contents of paras 1 to 5 are true to my personal knowledge and para 6 to 12 believed to be true on legal advice and that I have not suppressed any material fact.

Lucknow

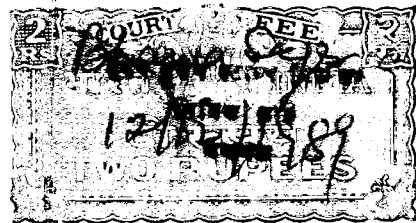
Date: 12-12-1989.

भवसागर
Applicant

In the Central Administrative Tribunal, Lucknow.

Original Application No. of 1989.

1989
AFFIDAVIT
82 IM
DIST. COURT
U. S.



Bhawa Sagar ... Applicant
Versus
Union of India (W.F. Railway) ... Respondent

Affidavit

I Bhawa Sagar S/o Shankar aged 53 years working as T.C.M. Grade I under Chief Telecommunication Inspector, W.F. Railway, Ashok Marg, Lucknow do hereby affirm and state on oath as under.

1. That the deponent is applicant and he is conversant with the fact of the case. ✓
2. That the deponent has passed Class V/1st Standard from the Basic Primary Pathshala, Roachchapar, District Deoria. His date of Birth in the School Certificate is 1st. January 1937 (01-01-1937). Annexure A-2 to the application is true copy of the School Certificate granted by the said Institution.
3. That the deponent submitted an application dated 4th April 1973 to the General Manager, Gorakhpur for alteration in the recorded date of Birth in his Service records contained in Annexure A-5 of the application.
4. That the date of Birth of Sri Ramishwar Driver A (Spl.) Ioda Shed, Gorakhpur was altered after 16 months of his

12/12/89

Contd. (2)

-- 2 : --

2/10

retirement on the basis of School Certificate. It was
satisfied on 28-2-1986 and his date of Birth was attested
during June 1987 and he was re-instated in service on
the alteration of his Date of Birth.

5. First Annexure A-2, A-3, A-4, A-5, A-6A, A-6B, A-7
A-8 and A-9 to his application for two copies.

Date: 12 December, 1989

भवसागर
Dependent

Verification

I Bhawa Sagar Dependent above named, do hereby
verify that the contents of pages 1 to 5 of the affidavit
are true to my personal knowledge.

Verified and signed on this 12 day of December,
1989 in the court compound at Jaipur.

ms
12.12.89

भवसागर
Dependent

I Mohd Ilyas Advocate identify the dependent
Bhawa Sagar who has signed before me.

C NO 02 14
12 05 PM. Bhawa Sagar.

Mohd Ilyas
Adv.

Mohd Ilyas
(Mohd Ilyas Advocate)

12.12.89

122

सर्टीफिकेट क्रम सं० १८२

लीविंग सर्टीफिकेट

तम्बर १२

केवल जिला परिषद के विद्यालय के प्रयोग हेतु

स्कूल तथा रजिस्ट्रारकित क्रम सं०...

प्रा. पां. कच्छापर

मण्डल जिला:- देवरिया

विवरण

नाम विद्यार्थी भवसागर [अ] नाम काटने का कारण- कक्षा ५ पास
 जन्म तिथि १ - ३० - १९४५ [ब] आचरण- उदा. ५
 स्कूल छोड़ते समय आयु १४ [स] नाम उच्च परीक्षा जो उत्तीर्ण की कक्षा ५
 वर्ष.... ४ माह उत्तीर्ण तिथि- ८ - ५ - १९५१
 पिता का नाम- शंकर - [द] विद्यार्थी की भाषा [हिन्दी या उर्दू]
 जाति [यदि हिन्दू हो अन्यथा धर्म] - लोहार - अन्य आवश्यक सूचना -
 निवास स्थान - तिलोत्तरी - [१] अर्थात् वह निःशुल्क -
 तहसील - सतलुजा जिला - देवरिया - [२] कक्षा निर्धारित तिथि से -
 उ० प्रदेश में रहने की अवधि- २० - ६ - ४५ - [अ] स्कूल खुलने की दिन सं० -
 प्रथम स्कूल प्रवेश का दिनांक- २० - ६ - ४५ - [ब] विद्यार्थी की उपस्थिति सं० -
 प्रवेश रजिस्टर की क्रम संख्या - २३ - [स] बीमारी की दिन सं० -
 स्कूल प्रवेश का अन्तिम दिनांक - २३ - १० - [द] पिता का व्यवसाय - कृषक
 स्कूल प्रवेश की अन्तिम क्रम संख्या - ४ -
 नाम काटने का दिनांक - ८ - ५ - ५१

राजकीय शिक्षा विभाग प्र. ३

दिनांक १ मास ७ सन १९५१

हस्ताक्षर प्रधानाध्यापक

नोट-१ - उपयुक्त उल्लेख शुद्ध और सुन्दर हो तथा प्रधानाध्यापक अपना हस्ताक्षर करे

- २ सर्टीफिकेट का लेख प्रवेश रजिस्टर के अनुसार हो।

- ३ आचरण संक्षेप में लिखना चाहिये।

- ४ स्कूल छोड़ते समय की गणना नाम कटने की तिथि तक की आय सर्टीफिकेट देने की तारीख तक नहीं।

भवसागर

(12)
A28

ANNEXURE A-3

COPY OF PARA 145 OF INDIAN RAILWAY ESTABLISHMENT CODE VOLUME I (REVISED EDITION 1959)

145

GENERAL

145. Date of birth.—(1) Every person, on entering railway service, shall declare his date of birth which shall not differ from any declaration expressed or implied for any public purpose before entering railway service. In the case of literate staff, the date of birth shall be entered in the record of service in the railway servant's own handwriting. In the case of illiterate staff, the declared date of birth shall be recorded by a senior Class III railway servant and witnessed by another railway servant.

(2) (a) When the year or year and month of birth are known but not the exact date, the 1st July or 16th of that month, respectively, shall be treated as the date of birth.

(b) When a person entering service is unable to give his date of birth but gives his age, he should be assumed to have completed the stated age on the date of attestation, e.g. if a person enters service on 1st January, 1938, and if on that date his age was stated to be 18, his date of birth should be taken as 1st January, 1920.

(c) Where the person concerned is unable to state his age, it should be assessed by a Railway Medical Officer and the age so assessed entered in his record of service in the manner prescribed above, the railway servant being informed of the age so recorded and his confirmation obtained thereto.

(3) The date of birth as recorded in accordance with these rules shall be held to be binding and no alteration of such date shall ordinarily be permitted subsequently. It shall, however, be open to the President in the case of a gazetted railway servant, and a General Manager in the case of a non-gazetted railway servant to cause the date of birth to be altered—

(i) where in his opinion it had been falsely stated by the railway servant to obtain an advantage otherwise inadmissible, provided that such alteration shall not result in the railway servant being retained in service longer than if the alteration had not been made, or

(ii) where, in the case of illiterate staff, the General Manager is satisfied that a clerical error has occurred, or

(iii) where a satisfactory explanation (which should ordinarily be submitted within a reasonable time after joining service) of the circumstances in which the wrong date came to be entered is furnished by the railway servant concerned, together with the statement of any previous attempts made to have the record amended, or

12.12.55

24/11/55

(13)

~~13~~

829

~~13~~

Annexure A-3 continued - 2 -

GENERAL

146

(iv) where the request for an alteration of the recorded date of birth supported by a copy of school register and transfer certificate is made near the date of retirement, in which case the railway servant concerned till a decision is taken, may be given the benefit of doubt even if his recorded age is beyond 55 years, subject to the conditions that his work is satisfactory and he is physically fit to continue in service and that in the case of workshop or shed staff and staff on train passing, &c. they will be subject to periodical medical examination for physical fitness.

भव लागत

~~13~~

245
12.12.25

Copy of Railway Board's letter No. (EG)11-70BR/1 dated 1-8-1972 addressed to the All General Managers and others, and circulated vide G.M.(P)/GK2 letter No. 1/71/1(iv) Sl.No. 2596 dated 21-8-1972 to all concerned.

Sub: - Procedure for recording date of Birth on entering Railway service and its alteration.

Attention is invited to Advance Correction Slip No. 303 to the Indian Railway Establishment Code volume I forwarded with Railway Board's letter of even number dated 3-12-1971 which requires that requests for alteration of date of Birth should not be entertained after completion of the probation period or three years service whichever is earlier.

2. It has been represented that the above amendment would cause hardship to the Railway servants who were already in employment on 3-12-1971 and who did not take advantage of the provision of the rule regarding alteration of date of birth as it stood before the above amendment.

3. The Board have considered the matter and have decided that such employees may be given an opportunity to represent against their recorded date of birth upto 31-7-73. Such requests should be examined in terms of the rules as they stood before the amendment.

4. The Board desire that wide publicity should be given to these orders through Railway Gazettes to enable aggrieved staff to ask for rectification of any mistake in their recorded date of birth. No second opportunity will be given after 31-7-73 and all requests for alteration of date of birth thereafter should be disposed off strictly in accordance with the amendment referred to above.

12/12/73

-2/11/01

Sd/- Dwarka Dass

Asstt. Director, Establishment
Railway Board.

To

The General Manager
N E Rly. Gwalior.

Through — Proper Channel
Sir

Sub Application for alteration in the
Date of Birth

With reference to Rly Bd's letter no
E(NG) II-70 BR/1 dated 4/8/1972 and GMI(A) GRP
no E/71/1 (10) SN 2596 dated 24/8/1972 I most
humbly beg to submit as under —

1. That I was appointed on this railway on 4th
January 1953 as a Khalase. At that time my date
of Birth was recorded as 1st January 1932 without
any basis proof of age and on estimation.
2. That I am a literate and I have passed
class Vth Standard in Basic Primary Pathshala
Ruchchapar District Deoria (UP). My date of Birth
in the school certificate is 1st January 1937 which
is different than the recorded date of birth in
my service records. As such the recorded date of
birth in my service records requires alteration.

I therefore pray your Honour will
kindly alter my date of birth in the service records
as 1st January 1937 on the basis of school certificate.
A true copy of school certificate is attached
herewith.

Thanking you for this act of kindness

Respectfully,
Recd on Copy.

Sd. Gokaran
T.R.
6/4/73

Seal
Telecom Inspector
N E Railway
Lucknow Fr

yours faithfully
(Phanve Sagar)
T E M under
TEI/Lucknow
Dated 4/4/1973.

12.12.05

भवतु

सर्टीफिकेट क्रम सं० १८२

लीविंग सर्टीफिकेट

नम्बर १२

केवल जिला परिषद के विद्यालय के प्रयोग हेतु

स्कूल तथा रजिस्ट्रारकित क्रम सं०... प्रा. पां. कच्छापर

मण्डल जिला:- देवरिया
विवरण

[अ] नाम काटने का कारण- कक्षा ५ पास
नाम विद्यार्थी भवसागर [व] आचरण- ३०.५
जन्म तिथि १ - ३० ३० ३० ३० [स] नाम उच्च परीक्षा जो उत्तीर्ण की कक्षा ५
स्कूल छोड़ते समय आयु १४ उत्तीर्ण तिथि- ८ - ५ - २९
वर्ष.... ४ माह अथवा कक्षा जिससे नाम कटा -
पिता का नाम- शंकर - [द] विद्यार्थी की भाषा [हिन्दी या उर्दू]
जाति [यदि हिन्दू हो अन्यथा धर्म] - लाहार अन्य आवश्यक सूचना -
निवास स्थान - तिलोत्तरी - [१] अर्थात् वह निःशुल्क -
तहसील - तिलोत्तरी जिला - देवरिया - [२] कक्षा निर्धारित तिथि से -
उ० प्रदेश में रहने की अवधि - प्राचीन - [अ] स्कूल खुलने की दिन सं० -
प्रथम स्कूल प्रवेश का दिनांक- २० - ६ - ४५ [ब] विद्यार्थी की उपस्थिति सं० -
प्रवेश रजिस्टर की क्रम संख्या २४ - [स] बीमारी की दिन सं० -
स्कूल प्रवेश का अन्तिम दिनांक - २२९० [द] पिता का व्यवसाय काष्ठालय
स्कूल प्रवेश की अन्तिम क्रम संख्या x ...
नाम काटने का दिनांक - ८ - ५ - २९

राजकिशोर तिलारी प्र. अ.

दिनांक ८ मास ७ सन १९५९.

हस्ताक्षर प्रधानाध्यापक

- नोट-१ - उपयुक्त उल्लेख शुद्ध और सुन्दर हो तथा प्रधानाध्यापक अपना हस्ताक्षर करे
- २ सर्टीफिकेट का लेख प्रवेश रजिस्टर के अनुसार हो।
 - ३ आचरण संक्षेप में लिखना चाहिये।
 - ४ स्कूल छोड़ते समय की गणना नाम कटने की तिथि तक की आय सर्टीफिकेट देने की तारीख तक नहीं।

भवसागर

12.12 05

Annexure - A-6A

AB3

The General Manager,
E.A. Railway,
Gorakhpur.

THROUGH :- PROPER CHANNELS.

S&A,

Sub - Request for alteration in the
recorded date of birth in the
Service Record of Bawa Sagar
A.O.N. (I) (Self) under G.M.I. (JW).

.....

I beg to submit as under :-

1. That I was appointed on this Railway on
1st January, 1955 in the capacity of Khalasi and I
got my promotion to next higher grades from time
to time. At present I have been promoted to post of
Highly skilled grade I as A.O.N. I under G.M.I./Bicknow.

2. That I have got primary education in Basic
Primary School, Bichapur near J.P. Road Railway
Station in District Deoria and I have passed
Class 5th from the said school in the year 1951.
The recorded date of my birth in the school certi-
ficate is 1st January 1922 (01-01-1922). A photo-
stat copy of the said school certificate is enclosed
herewith.

3. That at the time of my appointment, a
wrong date of my birth was recorded in my service
record as 1st January, 1922 (01-01-1922) without
support of any documentary evidence.

Yours . . . (2)

भवप्रसाद

ne
12.12.58

ABN

5. That applications were invited from the serving Railway employees for alteration in the recorded date of their birth in the service record sometime during the year 1978. Accordingly I represented for alteration in the recorded date of my birth in the service record as 1st. January, 1932 on the basis of School Certificate together with a copy of the School Certificate.

6. That now it appears that my aforesaid application was not acted upon and my date of birth remain unaltered in my service records.

7. That I have fundamental right to serve the Railway till the age of 58 years and on the basis of date of birth recorded in the School Certificate. I am entitled to serve the Railway till 31st. December 1990.

8. That on the basis of recorded date of my birth in the service record as 1st January 1932, I shall be entitled on 31st December 1990. My retirement on this date shall be premature and violative of Article 14 and 16 of Constitution of India.

9. That the Railway rules provide for alteration in the recorded date of birth of Railway employees available to third party and recorded the date of birth in their service records and such persons met with the General Manager in similar cases the recorded date of birth of the following employees has been altered as the date of retirement or other retirements.

Yours . . . (S)

महेश्वर

MS
12.12.95 JS

(18) Sri Sankar Lal P.Y. Mishra under
financial charge during December, 1984
before one month of his retirement
during January 1985.

(19) Sri Sankar Lal P.Y. Mishra under
charge during February 1985 after 18
months of retirement ~~and taken back to duty~~
during July 1985 and taken back to duty.

(20) Sri Sankar Lal P.Y. Mishra under
charge during 1985 after 18 months of
his retirement during February 1986.

2. That it is just and expedient in the interest
of justice to alter the date of my birth in my
service record as 1st January 1927 and to allow me
to serve the Railway till 31st December 1994.

3. Therefore, may your goodness will consider
my appeal for alteration in the recorded date of my
birth in the service record as 1st January 1927
and allow me to serve the Railway till 31st December
1994.

Thanking you for this act of justice,
Yours faithfully,

D. L. O. (BINA SAGAR)
Dated 14-6-1989- L.O.H.I. under
O.L.O.I., N.J.Hy./Icknow.
Copy by Registered Post to:-

1. To General Manager, P.Y. Coy. for
consideration in advance.
2. To Chairman, Railway Board, New Delhi for informa-
tion and necessary action at his level. He is
requested to direct the P.Y. Administration to
act upon my aforesaid appeal and satisfy himself.

D. L. O. (BINA SAGAR)
Dated 14-6-1989- L.O.H.I. under
O.L.O.I., N.J.Hy./Icknow.

[Handwritten signature]

[Handwritten signature]
12.12.89

सर्टीफिकेट क्रम सं० २२

लीविंग सर्टीफिकेट

नम्बर १२

केवल जिला परिषद के विद्यालय के प्रयोग हेतु
 स्कूल तथा रजिस्ट्रारकित क्रम सं०... ५१. पी. २० टा पार ... मण्डल जिला:- देवरिया ...
 विवरण

नाम विद्यार्थी भवसागर ... [अ] नाम काटने का कारण- कक्षा ५ पास
 जन्म तिथि १०. ३०. २००० ... [व] आचरण- ३०. ३०. २०००
 स्कूल छोड़ते समय आयु १४ ... [स] नाम उच्च परीक्षा जो उत्तीर्ण की ...
 वर्ष.... ४ माह अथवा कक्षा जिससे नाम कटा - ...
 पिता का नाम- शंकर ... [द] विद्यार्थी की भाषा [हिन्दी या उर्दू] -
 जाति [यदि हिन्दू हो अन्यथा धर्म] - लाहार - अन्य आवश्यक सूचना -
 निवास स्थान - तिलातली - [१] अर्थात् वह निःशुल्क -
 तहसील - देवरिया जिला - [२] कक्षा निर्धारित तिथि से -
 उ० प्रदेश में रहने की अवधि- प्राचीन - [अ] स्कूल खुलने की दिन सं० -
 प्रथम स्कूल प्रवेश का दिनांक- २०-६-४५ ... [ब] विद्यार्थी की उपस्थिति सं० -
 प्रवेश रजिस्टर की क्रम संख्या २२-४० ... [स] बीमारी की दिन सं० -
 स्कूल प्रवेश का अन्तिम दिनांक - २२-४० ... [द] पिता का व्यवसाय -
 स्कूल प्रवेश की अन्तिम क्रम संख्या -
 नाम काटने का दिनांक - २०-६-४५

राजेश्वरी शर्मा प्र. अ.

दिनांक २० मास १९५५

हस्ताक्षर प्रधानाध्यापक

नोट-१ - उपयुक्त उल्लेख शुद्ध और सुन्दर हो तथा प्रधानाध्यापक अपना हस्ताक्षर करें

- २ सर्टीफिकेट का लेख प्रवेश रजिस्टर के अनुसार हो।

- ३ आचरण संक्षेप में लिखना चाहिये।

- ४ स्कूल छोड़ते समय की गणना नाम कटने की तिथि तक की आय सर्टीफिकेट देने की तारीख तक नहीं।

भवसागर

१५
१२/१२ १९५५

20A

Annepore A-6A
5

Phu

Insurance fee Rs. P. (In words) | rates
grams

No. 1791

R. P.-51 (a)

Stamps affixed except in case of uninsured - Rs. P.
red letters of not more than the initials Date Stamp
weight prescribed in the Post and Telegraph
Guide on which no acknowledgment is due.

Received a V. P. registered*
addressed to.....

..... * Write here 'letter' 'parcel' or 'railway receipt'
of Receiving Office with the word 'insured' before it when necessary.

To be filled in only when the article is to be insured; otherwise
to be crossed out by means of two diagonal lines.

Insured for Rs. (in figures) (in words)

Insurance fee Rs. P. (In words) | rates
grams

No. 1792

R. P.-51 (a)

Stamps affixed except in case of uninsured - Rs. P.
red letters of not more than the initials Date Stamp
weight prescribed in the Post and Telegraph
Guide on which no acknowledgment is due.

Received a V. P. registered*
addressed to.....

..... * Write here 'letter' 'parcel' or 'railway receipt'
Receiving Office with the word 'insured' before it when necessary.

filled in only when the article is to be insured; otherwise
to be crossed out by means of two diagonal lines.

d for Rs. (in figures) (in words)

Insurance fee Rs. P. (In words) | rates
grams

12/12/28

12/12/28

5/12/89

श्री/मि. सी. भवसागर 189

मेर. 5 (का) 91

लखनऊ

दि 4.12.89

श्री भवसागर (दे. सी. भाग I)
अधीन 3 सं. नि. लखनऊ

वि जन्मतिथि

आपका जन्मदिन 14.6.89

आपके जन्मदिन फोटो में आपका प. कार्ड की जगह
है, यह कि आपने इस सन्वत् 14.6.89 के दूध
आपका जन्म की तिथि से 5 वर्ष के अन्तर आपने कोई
भी आपका पत्र नहीं दिया है अतः वर्तमान नियम के
अनुसार कोई कार्यवाही करना निम्नानुसार ~~कूल~~
नहीं है। इससे अतिरिक्त यह भी ज्ञात किया जाता है
कि आपने रिपोर्ट के जन्मतिथि 1.1.1932 अंकित है।
अतः इसी के अन्वये आपने सेवा निवृत्ति 3.12.89
अतः इसी के अन्वये के आपकी वर्तमान किमा
आता है कि रिपोर्ट की यह जन्मतिथि के संशोधन का कोई
औचित्य नहीं है।
आपका जन्मदिन 14.6.89 है।

मेर. 5 (का) लखनऊ

भवसागर

मे
12.12.89

Annexure A-7

72

738

P.P. No. 2 - 571

Sl. No. 2/71

Mod. 11/1(iv)

All General Managers,
All Heads of Departments,
All Regional Railway Managers,
All Divisional Officers/Encls,
All District Officers,
North Eastern Railway.

Office of the
General Manager (P)
Gor, Jir.

Dated 11.8.86

11-2-87

Subj:- Alteration in the recorded date of birth.

Copy of Railway Board's letter No.E(IG)1-83-82-7 dated 13.10.86 addressed to the General Managers all Indian Railways and to others in English and Hindi version is enclosed for their information and for necessary action.

DA/As above.

for General Manager (P)

Copy of Bd's letter No.E(M)1-83-82-7 dated 13.10.86 addressed to the General Managers, all Indian Railways and others.

Subj:- Alteration in the recorded date of birth.

An extract from the minutes of the PND Meeting held between 11/11 and the Board on 21.2.87/1987 is enclosed below:-

"Item C-231 option for staff to alter date of birth.

After discussions, it was agreed that the existing instructions relating to Group 'D' staff would be reiterated and the representations of Group 'C' staff would be examined on merits in the light of the extant rules.

2. As far as the instructions relating to group 'D' staff are concerned, attention is invited to Board's letter No. 11/78/82/12 dated 25/10/1979 (copy enclosed). These instructions are reiterated with the instruction and necessary action. Board also decided that the representations for alteration in the recorded date of birth received from Group 'C' staff should be examined on merits in the light of the extant rules.

3. Receipt of this letter may please be acknowledged.

DA/As above.

sd/-
K.B. LAIL
Joint Director, Estt.(N)
Railway Board.

Banshi Yadav
Officer

12-12-87

Amepure A-22-A H-8

7/8

8/29

आर्य समाज हि प्रचार(कर्मि)
कुपेता लिसे,
मध्य
कलकत्ता - ७०००११,

आर्य प्रचार(कर्मि), गीतपुर के वर को ०१/११/४६/१०५५
दिनांक १०/११/४६ के अनुसार की गयी प्रचार कार्य को सम्बन्धित
(१९६०-६१) गीतपुर की प्रचारिका ०-१-२९ मध्य की है और उन्हें उही पर
२००-२४०

उक्त विवरण में, गीतपुर लिखा गया है और उन्हें प्रचार कार्य सम्बन्धित
के वर पर गीतपुर लिख दिया गया है ।

कर्मचारी की अवधि १-१०-४० (जब से नियुक्ति हुई है) से गीतपुर
प्रचार कार्य की विधि तब तक जारी रहने परमा गवा है और कर्मचारी की ही ।
लेखिका के पैसे मिले है उसे नियमनुसार जमा करना होगा ।

यह सब बात प्रचारिका सम्बन्ध की अवधि से जारी किया गया है ।

श्री प्रचार हि प्रचार(कर्मि)

पत्र सं १ (परिणीत वर) । (दिनांक ३-२-४२ - मध्य ।

प्रचारिका मध्य । तथा प्रचारिका कर्मचारी के वर प्रचार :-

- १. आर्य प्रचार (कर्मि) / गीतपुर ।
- २. प्रचार मध्य / गीतपुर । (३) प्रचार कर्मि / गीतपुर ।
- ४. प्रचार कर्मि / मध्य । (५) प्रचार लिखिका लि, लिखिका ।
- ६. प्रचार लिखिका लिखिका मध्य ।
- ७. की गयी प्रचार प्रचार सम्बन्धित प्रचार ।

श्री प्रचार हि प्रचार(कर्मि)
मध्य ।

मध्य

T/E

Beelore

ms
12-2-42

Amr copy

Amr ~~Amr~~ A9

7B

(24)

P. & Railway

Atto

Office of the
General Manager (2)

Gorakhpur

No. 771/7(2), 10000

Dated: 12-12-1984

The Divisional Railway Manager (2),
P. & Railway,
Tacknow.

Subj - Date of Birth of Sri Shankar Ali
T.I.M. Grade I.

Ref - Your letter No. 711/20 dated 1-10-84 and
15-11-84 in dated 21-11-84.

In reference to your letter quoted above it is
informed that Chief Personnel Officer has decided that
in view of recommendation of B.M./B.K. and the
records made available, the date of birth of Sri Shankar
Ali may be altered to 1-8-33 (first August nineteen hundred
thirty three).

Please take action and inform the employee accordingly.
The 2/Copy containing 2500, 50/1 and 5/2012 in 13 Folios
are returned herewith.

Sd/-

DV is above.

General Manager (2)

21/11/84

T/e

Bydowse

ms
12.12.84

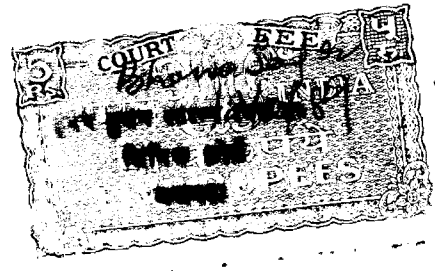
14/12

ब अदालत श्रीमान
[बादो अपीलान्ट]
प्रतिवादी [रेस्पाडेन्ट]

In the Central Administrative Tribunal
Lucknow Bench

महोदय

वकालतनामा



बादो (अपीलान्ट)

Bhama Seja vs Shriang Indu (NERB)
बनाम

प्रतिवादी (रेस्पाडेन्ट)

नं० मुकद्दमा सन् पेशी की ता० १६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री Mohd. Syas Advocate 4 RABazar

व Court Lucknow वकील महोदय एडवोकेट

नाम अधालत
मुकद्दमा नं०
नाम फरीकें

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया लसूब करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करे या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होना मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर... 14/12

साक्षी (गवाह) ... साक्षी (गवाह) ... 12/12

दिनांक ... 12 ... महोना — 12 — — सन् १९५९ ई०
स्वीकृत

847

-- 2 : --

6. That it is just and expedient for the end of justice. That the application may be heard early.

Wherefore it is prayed that the Hon'ble Tribunal be pleased to hear the amendment application and original application at an early date.

I acknowledge:

Dated: 25-6-1990.

Harjit
Applicant
Keel Singh
Adroen

पूर्वोक्त रेलवे

कार्यालय-अद्वैत

11/4/86

श्री रामेश्वर प्रसाद (ज०जा०) बालक *स* सीरल 550-750 लीटरेड
गोरखपुर की जिन्हे एजेंसि फील्ड / सेवापुस्तिका में अंकित जन्मतिथि दिनांक 16/2/28
के अनुसार 58 वर्ष की आयु पूर्ण करने पर दिनांक 28/2/86 के पद से
सेवानिवृत्त होना था किन्तु एड्मिनिस्ट्रेशन ऑफ रेलवे बोर्ड के
टेक्नीकीय एजेंसि की अतिरिक्त कुछ कार्मिक अधिकारी गोरखपुर के तार सं०-
ए/71/8/मागमा/1 x दिनांक 28/2/86 द्वारा इस कार्यालय को सूचित
किया गया था के अनुसार एने । पास और सेवा में दिनांक 31/3/86 तक
रखने के बाद सेवानिवृत्त किया गया था ।

उपरोक्त कर्मचारी की जन्मतिथि में परिवर्तन संबंधी प्रार्थना पर विचार
कर रेल परिषद के तार सं० 86/ए(एस०सी०टी०)ना/4/4 दिनांक 6/5/87
एवं महाप्रबन्धक (जा०) गोरखपुर के पत्र सं० जा/71/8/मागमा/1 x दिनांक .
13/5/87 द्वारा सेवापुस्तिका व सर्विस फील्ड में अंकित जन्मतिथि दिनांक 16/2/28
की परिवर्तित कर 12/7/33 कर दिया गया तथा सेवानिवृत्ति की तिथि दिनांक .
1/4/86 व पूर्वतन देने की तिथि के मध्यावधि तार को ** अज्ञानान ** करते
हुए तुरन्त दुरुही देने के आदेश दिये गये हैं ।

उपरोक्त के अनुमान में श्री रामेश्वर प्रसाद के दिनांक 29/6/87
की इस कार्यालय में उपस्थित होने पर सीरल मेडिकल के लिए प्रकर डा०एम०बी०जी०
गोरखपुर के पास बना गया और जिन्हे प्रकर मंडल चिकित्साधिकारी पूर्वोक्त रेलवे
गोरखपुर द्वारा प्रमाण पत्र सं० 29 दिनांक 2/7/87 द्वारा ए/1 मेडिकल कैटेगरी में *
फिट घोषित किया गया , की बालक *स* सीरल 550-750 अज मेल एस०एस
बालक 1640-2900 के पद पर नियुक्त कर लीकी पैड गोरखपुर में पद स्थापित
किया जाता है, मेजर एस प्रेस वावक के पद पर नये सीओवित वेतनमान में 2675 /-
निर्धारित किया जाता है । एवं मध्यावधिकार दिनांक 1/4/86 से 28/6/87 तक
का नियमन *अज्ञानान* में किया जाता है ।

यह प्रकर मंडल यात्रिक इन्जीनियर द्वारा अनुमोदित है ।

अध्यापक

हो

पूरे मंडल रेल प्रबन्धक (जा०)

अबनक 9/8/82/र

मो. 11/4/86

11/4/86

14

Trully
Ad'eah

In the Central Administrative Tribunal, Lucknow.

Rejoinder

In

O.A. No. 337 of 89 (D)

In the matter of:

Bhawa Sagar ... Applicant
versus
Union of India and another. ... Respondent

Fixed for 6-8-1991

Rejoinder to Counter Reply by Respondents.

It is most humbly submitted as under :-

1. That para 1 of Counter Reply (in short C.R.) need no comment.
2. That para 2 of C.R. need no comment.
3. That para 3 of C.R. need no comment.
- 4(i) That para 4(i) of C.R. need no comment.
- 4(ii) That para 4(ii) of C.R. need no comment.
- 4(iii) That the contents of para 4(iii) of C.R. are denied and the contents of para 4(iii) of Original Application (in short O.A.) are reiterated. It is further submitted that the applicants' date of birth as 1-1-1932 was not correctly recorded in the records of Railway Administration. 'A' Card is an important document as also medical certificate relating to service records. Their missing is an irrespon-

Contd. (2)

Handwritten signature

Filed today
JH
16/8/91

-sible act of the railway Administration. The Service Book prepared in the year 1987 is wrong and unauthentic and its attestation by A.P.O. is without competency. At the time of his appointment, the applicant was above 18 years of age, as such, there is no question of concealment of age at the time of appointment by the applicant. However the Railway rules, regulation and precedences provide alteration in the recorded date of birth at subsequent stages of service. Kindly see Annexures A-3, A-4, A-7, A-8, A-9 and A-10. The precedence of decision of the Hon'ble Tribunal in T.A. No. 1097 of 86 (T) (Suit No. 545 of 85) in re. Raj Nath Rai vs. Union of India is also filed herewith as Annexure A-11. The date of birth recorded in leave account is of no use in this case and the applicant has been wrongly retired on 31-12-1989 without deciding the dispute of the date of Birth by the competent authority i.e. The General Manager, N.E. Railway, Gorakhpur. The Sr. Divisional Personal Officer Lucknow ~~jurisdiction~~ had no jurisdiction, power and authority to dispose of the application regarding date of birth.

4(iv) The contents of para 4(iv) of G.R. are denied. The contents of para 4(iv) of O.A. are reiterated. It is further submitted that in face of rules, regulation and precedence of railway and earlier decision of the Hon'ble Tribunal, the presumption by respondents are of no use. Kindly see Annexures A-3, A-4, A-7, A-8, A-9, A-10 and A-11.

Contd. . . . (3)

भवसागर

H60

(4(v)) That the contents of para 4(v) of the O.A. are of no use for the respondents.

4(vi) That the contents of para 4(vi) of O.A. are reiterated. It is further submitted that non-receipt of Annexure 1-5 i.e. Railway Board Circular circulated by General Manager, W.F. Railway, Gorakhpur is concealment of document. The Annexure 1-5 is supported by affidavit. Hence it is admissible in evidence.

4(vii) That the contents of para 4(vii) are reiterated. It is further submitted that the submission of the application is supported by an affidavit contained in Annexure A-1. The receipt of application was acknowledged by Sri Gokaran T.K. of M.L. Com. Inspector, W.F. Railway, Lucknow under seal of his office. The said fact has not been specifically denied by Sri Gokaran T.K. supported by an affidavit. If it is not traceable, it is the fault of respondents as all relevant documents concerning this petition have been alleged to be missing. However the application dated 14-6-1989 contained in Annexure A-6A was available in the office of respondents to take positive decision thereon.

4(viii) That the contents of para 4(viii) of the O.R. are denied. The contents of para 4(viii) of the O.A. are reiterated. It is further submitted that non-receipt of reply and giving of reminder do not come in the way of consideration of application dated 14-6-1989 contained in Annexure A-6A.

Contd. (4)

अवकाश

4(ix) That the contents of para 4 (ix) of G.R. are denied. The contents of para 4 (ix) of O.A. are re-stated. It is further submitted that the Senior Divisional Personal Officer, N.F. Railway, Lucknow Jn. is not competent authority to take decision in the alteration of date of Birth. The competent authority is the General Manager, Gorakhpur. Kindly see para 145 (3) of Railway Establishment Code, volume 1 contained in Annexure A-3.

4(x) That the contents of para 4 (x) of G.R. are denied. The contents of para 4 (x) of the O.A. are re-stated. It is further submitted that the reply is evasive. No specific reply has been given for this para.

4 (xi) That the contents of para 4 (xi) of G.R. are denied. The contents of para 4 (xi) of O.A. are re-stated. It is further stated that the reply dated 4th December 1989, is not according to rules, regulations and precedance of the Railway Administration and has been issued by an authority without competency. The said reply is impugned in this application being without jurisdiction and authority.

4 (xii) That the contents of para 4 (xii) of G.R. are denied. The contents of para 4 (xii) of O.A. are re-stated. It is further submitted that the case

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applicant is similar to those referred in the precedences contained in Annexures A-8, A-9 and A-10. Senior Divisional Personnel Officer, Lucknow is not competent authority to decide his change of date of Birth. The competent authority is the General Manager, Gorakhpur. Kindly see Annexure A-3.

4(xiii) That the contents of para 4 (xiii) of G.R. are denied. The contents of para 4 (xiii) of O.1. are re-iterated. It is further submitted that the date of Birth of applicant as 1-1-1932 is wrong and ^{un}authentic and liable to be altered on the basis of date of Birth as 1-1-1937 recorded in the School certificate which is a correct and authentic date of Birth. The applicant's retirement on 31-12-1989 on the basis of wrong and un-authentic date of birth is unjust, illegal and inoperative and void. The correct date of retirement of the applicant is 31-12-1994.

4 (xiv) That the contents of para 4 (xiv) of G.R. are denied. The contents of para 4 (xiv) of O.1. are re-iterated. It is further submitted that the applicant has unlawfully been retired on 31-12-1989. The date of birth recorded in the Seniority list is of no use. The applicant disputed the recorded date of Birth on 4-4-1973 and 14-6-1989 before his retirement on 31-12-1989. Kindly see Annexure A-5

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and 1-61.

5. That the contents of para 5 of the G.R. are denied. The contents of para 5 of O.A. are re-iterated.

6. That the contents of para 6 of the G.R. are denied. The contents of para 6 of the O.A. are re-iterated. It is further submitted that application dated 14-6-1989 contained in Annexure A-6A alone was sufficient for consideration of his claim of the applicant for the change of his date of Birth if the earlier application dated 4-4-1973 was missing in his office of respondent.

7. That para 7 of G.R. need no comment.

8. That the contents of para 8 of G.R. are denied. The contents of para 8 of O.A. are re-iterated.

9. That the contents of para 9 of the G.R. are denied. The contents of para 9 of the O.A. are re-iterated. It is further submitted that there was no loss to the respondent if the applicant was allowed to work during the pendency of the application. In spite of order of the Tribunal, the respondent has not paid the provisional payment of Monthly Pension for which respondents are liable to pay special damages as compensatory costs and interest.

Contd. (7)

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10. That para 10 of C.R. need no comment.
11. That para 11 of C.R. need no comment.
12. That para 12 of C.R. need no comment.
13. That it is further submitted that the respondents have willfully delayed in filing the Counter Reply within the prescribed period of 4 weeks from 26-12-1989 and willfully disobeyed the order of the Tribunal dated 16-8-1990 for provisional payment of amount equal to Monthly Pension as yet. therefore the application may be allowed with special compensatory cost for the damages with interest.

Verification

I Bhow Sagar, the applicant abovenamed, do hereby verify that the contents of para 1 to 13 of the rejoinder are true on the legal advice and believed by me true. No material fact has been concealed.

Encls On Annexure 1-11

I Acknow

Dated: 27-7-1991

Bhow Sagar
(BHOW SAGAR)

Applicant.

Truly
Aswanti
comd p. p. p.

Bhow Sagar

Annexure A-II

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A65

CENTRAL ADMINISTRATIVE TRIBUNAL

ALIMAD BENCH

Registration No. '9' of 1986(T)

(Original Suit No. 545 of 1985)

1. Nath Rai

.....

APPLICANT
(Plaintiff)

Vs.

Union of India through Secretary,
Ministry of Defence, (Defence
Productions) and others

RESPONDENTS
(Defendants).

Hon. Justice S. Ziaheer Hasan, Vice Chairman

Hon. Ajay Johri, Member(A).

(Delivered by Hon. S. Ziaheer Hasan, V.C.)

Suit No. 545 of 1985 has been transferred to this tribunal by Munsif City, Kanpur, under section 29 of the Administrative Tribunals Act, 1985.

On 9.4.1985 the plaintiff Raj Nath Rai filed a suit for injunction directing the defendants to record the date of birth of the plaintiff as 12.9.1942 instead of 22.8.1938, as recorded in his service book.

The plaintiff joined service as fitter in the Ordnance Equipment Factory, Kanpur, on 27.8.1963. At that time he gave his age as 20 years and also mentioned that he had passed High School. On 22.8.1963 the Medical Officer examined the plaintiff and assessed his age as 25 years. His date of birth was recorded as 22.8.1938 (August 1963 minus 25 = August 1938)

According to the plaintiff,

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he came to know that his date of birth was wrongly recorded in the service book when he received his permanent identity card. He made a representation in this connection soon thereafter. He again made a representation for correction of his date of birth on 2.11.1982, wherein he referred to a representation made three years back for amendment of his date of birth. He sent reminders on 24.1.1983 and 6.9.1984 saying that his request for change in the recorded date of birth could not be acceded to under the existing rules.

The defence is that the plaintiff himself gave his age as 20 years on 27.8.1963, but the doctor assessed his age as 25 years, so in the service record his date of birth was recorded as 22.8.1938. He signed the service record and he also had the identity card in which the same date was recorded, but he never challenged the same. His first representation was made on 2.11.1982 after great lapse of time, which was rightly rejected.

The simple question to be decided is as to whether the plaintiff has proved by cogent evidence that he was born on 12.9.1942, and not on 22.8.1938, as recorded in his service book. On the one hand there is the entry in the service book and identity card plus medical assessment, and on the other hand there is the entry in the High School certificate showing that the plaintiff was born on 12.9.1942 and he passed his High School examination in March, 1958.

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Amrapur 18/11/73

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The plaintiff belongs to Bihar.

His case is that before his employment he came to one of his relations, Sri S. S. Sinha, who was employed in this factory, and while he was living with him he got a chance of appointment, so on 27.8.1963 he was appointed as a fitter, and since he did not have his High School certificate with him, as he gave his age roughly as 20 years. It was a semi-skilled post, so the authorities never asked him to produce the High School certificate in proof of his age. It may be that he signed his service book on 23.11.1967 in a mechanical way without noticing the date of birth recorded therein. When he got the identity card on 9.8.1979 he came to know that his date of birth was recorded as 22.9.1938. In the police verification report his date of birth is recorded as 12.9.1942.

Though the police verification report was submitted, the defendants failed to produce the same. In the High School certificate the plaintiff's date of birth is recorded as 12.9.1942. It was mentioned at the time of his appointment that he had passed the High School examination. According to his claim he was about 16 years old when he passed his High School examination, and if the service record is taken as correct, he was 20 years old when he passed the High School examination, which is not the normal age for a student to pass the High School examination. Of course, everything is possible, but the richness of human experience

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has taught us to prefer probable over possible.
In the identity card which was issued on 18.8.1979
the date of birth is recorded as 22.3.1938, and
when he came to know about this entry, he made a
representation. Thereafter he made several
other representations and ultimately his claim
was not accepted.

On 22.8.1963 the plaintiff was
medically examined and the doctor gave his age
as 25 years on a rough estimate. By adding 25 to
August 1938 the date of birth was written
22.8.1938. This arithmetical calculation was
done on a rough basis and appears to have been
taken as correct simply because the entry in the
service book on this basis remained unchallenged
for a long time and at one place in the service
book the plaintiff had put his signature. As
already stated, it may be that the plaintiff
had put his signature in a mechanical way, and when
he came to know about the date of birth recorded
in the service book through the identity card, he
started challenging it. The date of
birth as recorded in the service book on the basis of
medical evidence is definitely not accurate.
There seems to be no good reason to disbelieve
the High School Certificate, specially when it
was mentioned at the time of the plaintiff's entry
in the service that he had passed High school
examination. He belonged to Bihar, and it may be
that at the time of his entry in the service he did
not have his High School certificate with him, so
he gave rough estimate of his age, since it was a

Statist

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case of appointment of a semi-skilled worker.

So the plaintiff has proved by correct evidence that his date of birth as recorded in the service book (i.e., 22.8.1938) is incorrect.

The plaintiff's suit is decreed with costs on parties, and the defendants are directed to correct the plaintiff's date of birth as 12.9.1942 instead of 22.8.1938, which is entered in his service record.

Sd/-

S/-

Chairman

Member (A)

Dated 1 January 20th, 1967.

TRUE
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DDO, J. (D.S. 1312)
SECRETARY
CENTRAL INDUSTRIAL TRIBUNAL

True Copy Certified
Mohd. Iqbal
Advocate
Counsel for Applicant

He
By order

20-1-67

(1)

Date of filing <u>12/12/89</u>
Registration No. <u>337/89(A)</u>

B71

In the Central Administrative Tribunal, Lucknow.

Bhawa Sagar S/o Shankar S/o T. No. 1/341, Vikram Khand,
Gentil Nagar Colony, Lucknow employed in the capacity of
T.O.M. highly skilled Grade I under Chief Telecommunication
Inspector, Telephone Exchange, E.I. Railway, Ashok Marg,
Lucknow.

... Applicant

VERSUS

1. Union of India through General Manager, North Eastern
Railway, Gorakhpur.
 2. Divisional Railway Manager (P), N.E. Railway, Ashok Marg, Lucknow.
- ... Respondent

Details of Application.

1. Particulars of orders against the application is made.

Declaration of date of Birth and alteration in
the recorded date of appointment. ~~Representative order~~
D.R.M(P), Lucknow letter No E/11/PC/Bhawa Sagar/89 dt. 4-12-89 contained in
Annexure A-6B.

2. Jurisdiction of the Tribunal.

The applicant declares that the subject matter of
the order against which he wants redressal is within
the jurisdiction of Tribunal.

3. Limitation.

The applicant further declares that the application
is within the limitation period prescribed in section 21
of the Administrative Tribunal Act 1985.

4. Facts of the case.

(1) That the applicant was appointed on E.I. railway
on the post of Assistant (Group D) on 1st January 1985.

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Employee was promoted to various next higher grades from time to time. At present he is working in the capacity of P.O.M.-I under the Chief Telecommunication Inspector, Telephone Exchange, N.E. Railway, Ishik Marg, Lucknow.

(ii) That the age of superannuation of the Railway employees is 58 years which is determined on the basis of the Date of Birth recorded in the service records. The recorded date of birth of the applicant in his service record is 1st. January 1932. Accordingly the date of superannuation of the applicant is 31st. December 1989.

(iii) That the Date of Birth of the applicant was recorded in his service record erroneously as 1st. January 1932 without any basis ^{of proof of age} and in arbitrary manner and needed alteration. The authentic Date of Birth of the applicant is 1st. January 1937 on the basis of School Certificate. Accordingly the Date of Superannuation of the applicant shall fall on 31st. December 1993 1994. Annexure 1-2 is true copy of the School Certificate duly proved by affidavit contained in Annexure 1-1.

(iv) That Indian Railway Establishment Code Volume I is framed by President in exercise of Powers conferred on him under proviso to Article 209 of Constitution of India. The Para 145 of the said Code deals with the date of Birth of the Railway Servant. In the terms of Para 145 (2)(iii) of the aforesaid Code it is open to the General Manager to cause the date of birth to be altered, where a satisfactory explanation (which should ordinarily be submitted within a reasonable time after joining the service) of the circumstances in which a wrong date of Birth came to be entered is furnished by the Railway

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document submitted. Annexure 1-3 is true copy of the extract of Para 1.5 of the said Code.

(v) That the Para 1.5(2)(ii) of the aforesaid Code contained in Annexure 1-3 was amended vide Advanced Circular Slip No. 303 which was circulated vide Railway Board on 2-12-1971 which requires that request for alteration of date of Birth should not be entertained after completion of the Probation period or three years whichever is earlier.

(vi) That the Railway Board extended an opportunity to Railway Servants who were already in employment and who did not take advantage of the provision of the rules regarding alteration of Date of Birth as it stood before the said amendment to represent against their recorded Date of Birth upto 31-7-1972 vide their letter No. 2 (MC) 11-70B&I dated 1-8-1972 circulated vide G.M. (P)/GMR No. 7/71/1(1v) SF2596 dated 21-8-1972. Annexure A-4 is content of the said Circular.

(vii) That pursuant to the directives of the Railway Administration contained in Annexure A-1 regarding alteration in the recorded date of birth of the Railway employees, the applicant submitted his application dated 14th April 1973 to the General Manager, Gorakhpur through proper channel (T.O.I./JKN). Annexure A-5 is true copy of the said application.

(viii) That it was a Special Drive by the Railway Administration to alter the Date of Birth of the willing employees and no refusal in the case of the applicant was communicated to him, it was believed in good faith that the request of the applicant contained in Annexure

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4-5 was referred to.

(ix) That at the beginning of the year 1989 ~~XXXXXX~~ was ~~referred~~ to the applicant that his application dated 14-6-1988 contained in Annexure 1-5 was not acted upon and his date of Birth remain unaltered and the applicant shall be retired on 31st. December 1989. So the applicant submitted an appeal dated 14-6-1989 addressed to the General Manager endorsing a copy of the same to the Chairman, Railway Board. Annexure 1-6 is true copy of the said appeal. The Respondent No. 2 instead of processing the said appeal dated 14-6-1989 to the General Manager the competent authority, himself passed an illegal order dated 1-12-1989 contained in Annexure 1-6B without jurisdiction.

(x) That statutory provision exists to ^{application dt- 4/4/73 contained in Annexure A5 and the} consider the appeal dated 14-6-1989 contained in Annexure 1-6 by the General Manager under the provision of Section 22(3) of the Railway Servant (Discipline and Appeal) Rules, 1968 framed by the President in exercise of powers conferred on him under proviso to Article 207 of Constitution of India but the ^{by the complainant authority the General Manager} said appeal was not acted upon ^{within six months of its filing} and the applicant shall be forced to retire on 31st. December 1989.

(xi) That the Railway Board vide their letter No. 7(EG)-26-BR-7 dated 12-10-1986 circulated vide G.M.(R), Gorakhpur letter No. 2171-1/11/1(iv) dated 11-2-1987 has further directed that the representation for alteration in the recorded date of Birth received from the Board should be examined on merit on the light

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of extent rules. But the aforesaid directive is violated in the case of the applicant. Annexure 1-7 is true copy of the said directive.

(xii) That precedences are there that the date of birth of Railway employees have been altered at the nick of their retirement or after retirement. A few cases are cited below. These cases are not exhaustive but illustrative :-

(1) Sri Wali Mohd. ix. Waiting Room Beamer Sitapur.

His date of Birth was altered after 18 months of his retirement and he was re-instated in service vide D.B.M.(P) Lucknow Office Order No. 1/PO/W.Mohd dated 8-2-1982 read with G.M.(P)/GKP No. 2/71/11(ix) loose dated 2/25-12-1981 on the basis of School Certificate. Annexure 1-8 is true copy of the aforesaid letter.

(2) Sri Shankar Ali Mistry, Gonda.

His date of Birth was altered at the nick of his retirement vide G.M.(P)/GKP letter No. 2/71/71(ix) loose dated 18-12-1981 on the basis of School Certificate. Annexure 1-9 is true copy of the said letter.

(3) Sri Ramshwar Driver A(Spl.), Toco Shed, Gorakhpur

His date of Birth was altered after 16 months of his retirement on the basis of School Certificate. He was retired on 28-2-1985 and he was re-instated during June 1987. Annexure 1-1 is an affidavit supporting the aforesaid facts.

(xiii) That on the basis of School Certificate the Date of Birth of applicant is 1st. January 1937 and he should be retired on 31st December 1991. But on the basis of recorded date of Birth, the applicant shall be forced to retire ^{premature} on 31st. December 1989.

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(xiv) That it will be in the interest of justice to declare that the date of Birth of the applicant is 1st. January 1937 and his date of retirement will be 31st December 1989 in place of 31st. December 1989.

5. Grounds of relief with legal provision.

On the basis of the facts mentioned in Para 4 of the application, the applicant is entitled for the relief on the followings amongst other grounds :-

- (a) because the directive of Railway Board contained in Annexure A-1 are violated.
 - (b) because there is a clear discrimination of Article 14 of the Constitution of India as much as the date of Birth of S/Sri Wali Mohd., Shamlat Ali and Rameshwar contained in Para 4(xii) of the application were altered on their representation. But no such heed has been paid on the appeal of the applicant.
 - (c) because the statutory provision u/s 22(3) of the Railway servant (Discipline and Appeal) Rule 1968 are violated as the application dated 4th April 1972 and appeal dated 1st June 1989 contained in Annexure A-5 and A-6 respectively were not considered and just and equitable decision was not taken.
 - (d) because the date of Birth is valuable right which may not be ignored on pick and choose basis.
 - (e) because the respondent No.2 has passed an illegal order dated 4-12-89 contained in Annexure A-6 without jurisdiction.
6. Details of remedy exhausted.

The applicant declares that he has availed of all the remedies available to him under the relevant service rules etc.

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(1) Application dated 14 April 1973 to the General Manager Gorakhpur contained in Annexure A-5.

(2) Appeal dated 1st June 1989 addressed to the General Manager Gorakhpur copy indorsing to the Chairman Railway Board New Delhi contained in Annexure A-6.

7. Not previously filed or pending before any court of law.

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made by any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Relief(s) sought.

In view of the facts mentioned in para 6 above the applicant prays for the following reliefs :-

(a) Declaring that the date of Birth of the applicant is 1st January 1937 (01-01-1937) and that the date of Birth recorded in the service record of the applicant is wrong and should have been corrected.

(b) Urging the respondent not to quash the applicant on 31-12-1989 and strike out the order dated 1-12-1989 contained in Annexure A-6B before 31st December 1991 *and not to retire the applicant*

(31-12-1991), and to grant a suitable pension to the applicant in service *in service of the respondent from 1-1-90 with arrears of pay and allowances etc.*

(c) Any other relief which it is deemed just and proper in the circumstances of the case.

9. Interim order if any prayed for.

Pending final decision on the application the applicant seeks the following Interim Relief :-

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(a) Directing the respondent temporarily not to retire the applicant on 31-12-1989.

10. Not applicable.

11. Particulars of Postal Order in respect of Application Rs.

(1) No. of Indian Postal Order. 02 411166

(2) Form of Issuing Post Office. Annabed unknown

(8) Date of Issue of Postal Order. 12 12. 1929

(e) Post Office at which payable. Allahabad

12. List of angelenos.

is given details in the Index of the application.

Dated: 12-12-1980

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 10:00 a.m. - 11:00 a.m.
 11:00 a.m. - 12:00 p.m.

DECLARATION

I Bhawa Sagar S/o Sri Shrikrishna aged 58 years employed as T.O.M. Grade I under the Chief Telecommunication Inspector, Telephone Exchange, P.O. Railway, Ashok Marg, Lucknow S/o I.No. 1/341, Vikram Khand, Ganti Sagar Colony, Lucknow do hereby verify that the contents of para 1 to 5 are true to my personal knowledge and para 6 to 12 shall be true on legal advice and that I have not suppressed any material fact.

Incident #28

Date of 12-12-1989.

भवति

Applicant

Page 10

In the Central Administrative Tribunal, Lucknow.

Original Application No. of 1989.

Bhawa Sagar ... Applicant

VERSUS

Union of India (F.R. Railway) ... Respondent

Affidavit

I Bhawa Sagar S/o Shankar aged 53 years working as S.O.M. Grade I under Chief Telecommunication Inspector, F.R. Railway, Lucknow do hereby affirm and swear on oath as under.

1. That the deponent is applicant and he is conversant with the facts of the case.
2. That the deponent has passed Class V in Standard from the Basic Primary Pathshala, Ruchhagar, District Doria. His date of birth in the School Certificate is 1st. January 1937 (01-01-1937). Annexure 1-2 to the application is true copy of the School Certificate granted by the said Institution.
3. That the deponent submitted an application dated 4th April 1978 to the General Manager, Gorakhpur for alteration in the recorded date of birth in his Service records contained in Annexure A-5 of the application.
4. That the date of Birth of Sri Ramswar Driver A (Spl.) Toco Shed, Gorakhpur was altered after 16 months of his

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Contd. (2)

retirement on the basis of School Certificate. He was retired on 28-2-1986 and his date of Birth was altered during June 1987 and he was re-instated in service on the alteration of his Date of Birth.

5. That Annexure A-2, A-3, A-4, A-5, A-6A, A-6B, A-7 A-8 and A-9 to the application are true copies.

Date & 12 December, 1989

भवसागर

Deponent

Verification

I Bhawa Sagar Deponent above named, do hereby verify that the contents of paras 1 to 5 of the affidavit are true to my personal knowledge.

verified and signed on this 12th day of December, 1989 in the court compound at Lucknow.

भवसागर

Deponent

I Mohd Ilyas Advocate identify the deponent Bhawa Sagar who has signed before me.

Mohd Ilyas
(Mohd Ilyas Advocate)

सर्टीफिकेट क्रम सं० १८२

लीविंग सर्टीफिकेट

नम्बर १२

केवल जिला परिषद के विद्यालय के प्रयोग हेतु

स्कूल तथा रजिस्ट्रारकित क्रम सं०... प्रा. पां. कच्छापर

मण्डल जिला:- देवरिया
विवरण

नाम विद्यार्थी भवसागर ... [अ] नाम काटने का कारण- कक्षा ५ पास
 जन्म तिथि ०१ - ३० - १९८५ [ब] आचरण- उत्तम
 स्कूल छोड़ते समय आयु १४ [स] नाम उच्च परीक्षा जो उत्तीर्ण की कक्षा ५
 वर्ष.... ४ माह उत्तीर्ण तिथि- ८ - ५ - १९९५
 पिता का नाम- शंकर - [द] विद्यार्थी की भाषा [हिन्दी या उर्दू]
 जाति [यदि हिन्दू हो अन्यथा धर्म] - लोहार अन्य आवश्यक सूचना -
 निवास स्थान - तिलोत्तरी - [१] अर्थात् वह निःशुल्क -
 तहसील - लालमनपुर जिला - देवरिया - [२] कक्षा निर्धारित तिथि से -
 उ० प्रदेश में रहने की अवधि - प्राचीन - [३] स्कूल खुलने की दिन सं० -
 प्रथम स्कूल प्रवेश का दिनांक- २० - ६ - ८५ [ब] विद्यार्थी की उपस्थिति सं० -
 प्रवेश रजिस्टर की क्रम संख्या २३३ [स] बीमारी की दिन सं० -
 स्कूल प्रवेश का अन्तिम दिनांक - १२९० [द] पिता का व्यवसाय कृषि
 स्कूल प्रवेश की अन्तिम क्रम संख्या X
 नाम काटने का दिनांक - २ - ५ - ९५

राज्य शिक्षा विभाग प्र. अं.

दिनांक ६ मास ७ सन १९९५.

हस्ताक्षर प्रधानाध्यापक

- नोट-१ - उपयुक्त उल्लेख शुद्ध और सुन्दर हो तथा प्रधानाध्यापक अपना हस्ताक्षर करें १० १० १०
 - २ सर्टीफिकेट का लेख प्रवेश रजिस्टर के अनुसार हो।
 - ३ आचरण संक्षेप में लिखना चाहिये।
 - ४ स्कूल छोड़ते समय की गणना नाम कटने की तिथि तक की आय सर्टीफिकेट देने की तारीख तक नहीं।

भवसागर
 T.C. A-11-11-11
 7-11-11

~~383~~

Annexure 4-B continued - 2 -

GENERAL.

148

(iv) where the request for an alteration of the recorded date of birth supported by a copy of school register and transfer certificate is made near the date of retirement, in which case the railway servant concerned till a decision is taken, may be given the benefit of doubt even if his recorded age is beyond 55 years, subject to the conditions that his work is satisfactory and he is physically fit to continue in service and that in the case of workshop or shed staff and staff on train passing, &c. they will be subject to periodical medical examination for physical fitness.

भवनाग

for ...
...

~~4~~

Copy of Railway Board's letter No. 7(EG)11-70B4/1 dated 1-8-1972, addressed to the All General Managers and others, and also to the M.O. (2)/G2 letter No. 1/71/1(iv) S.I. No. 2532 dated 2-8-1972 to the concerned.

Subj - Procedure for recording date of Birth on entering Railway service and its alteration.

Attention is invited to Railway Board's letter No. 203 to the Indian Railway Establishment Code volume I forwarded with Railway Board's letter of your number dated 2-12-1971 which requires that requests for alteration of date of Birth should not be entertained after completion of the probation period of three years service which is earlier.

2. It has been represented that the above amendment would cause hardship to the Railway servants who were already in employment on 2-12-1971 and who did not take advantage of the provision of the rule regarding alteration of date of birth as it stood before the above amendment.

3. The Board has considered the matter and has decided that such employees may be given an opportunity to represent against their recorded date of birth upto 31-7-72. Such requests should be considered in terms of the rules as they stood before the amendment.

4. The Board desires that wide publicity should be given to these orders through Railway Gazettes to enable aggrieved staff to ask for rectification of any mistake in their recorded date of birth. No second opportunity will be given after 31-7-72 and all requests for alteration of date of birth thereafter should be disposed off strictly in accordance with the amendment referred to above.

Sd/- Dwarka Dass

Asstt. Director, Establishment
Railway Board.

*From copy of letter
sent to all
M.O. (2)/G2
for their
action*
मन्मथ

To

The General Manager
N E Rly. Gwalior.

Through — Proper Channel
Sir

Sub Application for alteration in the
Date of Birth

With reference to Rly Bd's letter no
E(NC) II-70 BR/1 dated 4/8/1972 and GM(R)GRP
no E/71/1 (IV) SN 2596 dated 24/8/1972 I most
humbly beg to submit as under —

1. That I was appointed on this railway on 4th
January 1955 as a khulase. At that time my date
of birth was recorded as 1st January 1932 without
any basis proof of age and on estimation.
2. That I am a literate and I have passed
class VII Standard in Basic Primary Path Sala
Ruchchapar District Deoria (UP). My date of birth
in the school certificate is 1st January 1937 which
is different than the recorded date of birth in
my service records as such the recorded date of
birth in my service records requires alteration.

I therefore pray your honour will
kindly alter my date of birth in the service records
as 1st January 1937 on the basis of school certificate.
A true copy of school certificate is attached
herewith.

Thanking you for this act of kindness

yours faithfully

Received one copy

Sd. Gakorian

TR

6.4.93

Seal

Tie Com Inspector

N E Rly

Gwalior

(Bhawu Sagar)

TE M Under

TEI/ Lucknow

Dated 4/4/1978.

MAHJIT

नोट-१ - उपयुक्त उल्लेख शुद्ध और सुन्दर हो तथा प्रधानाध्यापक अपना हस्ताक्षर करे वा० वा० प्रधानाध्यापक

— २ सर्टीफिकेट का लेख प्रवेश रजिस्टर के अनुसार हो।

— ३ आचरण संक्षेप में लिखना चाहिये।

— ४ स्कूल छोड़ते समय की गणना नाम कटने की तिथि तक की आय सर्टीफिकेट देने की तारीख तक नहीं।

भवनाभा

1/11/11
10/11/11
7/11/11

886

सर्टीफिकेट क्रम सं० १८५

लीविंग सर्टीफिकेट

नम्बर १३

केवल जिला परिषद के विद्यालय के प्रयोग हेतु
स्कूल तथा रजिस्ट्रारकृत क्रम सं०... प्रा. पां. रुच्योपाय मण्डल जिला:- देवरिया
विवरण

नाम विद्यार्थी भवसागर [अ] नाम काटने का कारण- कक्षा ५ पास
जन्म तिथि ५-३७-२५ [व] आचरण- उत्तम
स्कूल छोड़ते समय आयु १४ [स] नाम उच्च परीक्षा जो उत्तीर्ण की कक्षा ५
उत्तीर्ण तिथि- ८-५-५९
वर्ष.... माह अथवा कक्षा जिससे नाम कटा -
पिता का नाम- शंकर [द] विद्यार्थी की भाषा [हिन्दी या उर्दू]
जाति [यदि हिन्दू हो अन्यथा धर्म] - लोहार अन्य आवश्यक सूचना -
निवास स्थान - लोहार [१] अर्थात् वह निःशुल्क -
तहसील - लोहार जिला - देवरिया [२] कक्षा निर्धारित तिथि से -
उ० प्रदेश में रहने की अवधि- प्राचीन [अ] स्कूल खुलने की दिन सं० -
प्रथम स्कूल प्रवेश का दिनांक- २०-६-४५ [ब] विद्यार्थी की उपस्थिति सं० -
प्रवेश रजिस्टर की क्रम संख्या २४३ [स] बीमारी की दिन सं० -
स्कूल प्रवेश का अन्तिम दिनांक - १२९० [द] पिता का व्यवसाय - कृषक
स्कूल प्रवेश की अन्तिम क्रम संख्या X
नाम काटने का दिनांक - ८-५-५९

राजकिशोर लोहार प्र. अ.

Mr. General Manager

Central Railway

Calcutta

Subject: Request for alteration in the

885

Subject - Request for alteration in the recorded date of birth in the Service Record of Bama Sagar T.O.M. (X) (Self) under O.M.I. (JW).

.....

I beg to submit as under:-

1. That I was appointed on this Railway on 1st January, 1955 in the capacity of Khalsi and I got my promotion to next higher grades from time to time. At present I have been promoted to post of highly skilled grade I as T.O.M. X under O.M.I./Dickson.

2. That I have got primary education in Basic Primary Pathshala, Machapara near Far Road Railway Station in District Duxid and I have passed class VII from the said school in the year 1951. The recorded date of my birth in the school certificate is 1st January 1927 (01-01-1927). A photostat copy of the said school certificate is enclosed herewith.

3. That at the time of my appointment, a wrong date of my birth was recorded in my service record as 1st January, 1928 (01-01-1928) without support of any documentary evidence.

Yours faithfully (2)

भवप्रसाद

From wing computer
in certificate
17.1.1955
A-6A-26

- 12 -

6. That applications were invited from the serving Railway employees for alteration in the recorded date of their birth in the service record sometime during the year 1972. Accordingly I represented for alteration in the recorded date of my birth in the service record as 1st. January, 1932 on the basis of School Certificate together with a copy of the School Certificate.

7. That now it appears that my aforesaid application was not acted upon and my date of birth remain unaltered in my service records.

8. That I have fundamental right to serve the Railway till the age of 55 years and on the basis of date of birth recorded in the School Certificate. I am entitled to serve the Railway till 31st. December 1987.

9. That on the basis of recorded date of my birth in the service record as 1st January 1932, I shall be retiring on 31st December 1989. My retirement on this date shall be premature and violative of Article 14 and 16 of Constitution of India.

10. That the Railway rules provide for alteration in the recorded date of birth of Railway employees in their service records and such power rest with the General Manager. In similar cases the recorded date of birth of the following employees has been altered at the time of retirement or after retirement.

Hunted . . . (2)

भवनिगा

From city commission
 1. Mr. A. K. Singh
 2. Mr. A. K. Singh
 3. Mr. A. K. Singh
 4. Mr. A. K. Singh
 5. Mr. A. K. Singh
 6. Mr. A. K. Singh
 7. Mr. A. K. Singh
 8. Mr. A. K. Singh
 9. Mr. A. K. Singh
 10. Mr. A. K. Singh

- 3 -

(8) Sri Sankar Lal D.Y. Mishra under
Gonda
Electrical Overseer during December, 1984
before one month of his retirement
during January 1985.

(11) Sri Hali Mohd. ex-waiting Room beamer
Sitapur during February 1982 after 18
months of retirement ~~xxxxxxxxxxxxxx~~
during July 1980 and taken back to duty.

(12) Sri Anandwar Driver A (Spl.) Ioco Shed
Gorakhpur during 1987 after 18 months of
his retirement during February 1986.

9. That it is just and expedient in the interest
of justice to alter the date of my birth in my
Service record as 1st January 1927 and to allow me
to serve the Railway till 31st December 1994.

I, therefore, pray your goodness will consider
my appeal for alteration in the recorded date of my
birth in the Service record as 1st January 1927
and allow me to serve the Railway till 31st December
1994.

Thanking you for this act of justice.

Yours faithfully,

D. to C.O.

Date 14-3-1989-

Copy by Registered Post to:-

1. To General Manager, W.F. Ry. Gorakhpur for
consideration in advance.

2. To Chairman, Railway Board, New Delhi for informa-
tion and necessary action at his level. He is
requested to direct the W.F. Ry. administration to
act upon my aforesaid appeal and satisfy himself.

D. to C.O.

Date 14-6-1989

(BHAWA SAGIA)

T.O.M.I. under
G.O.L., R.F. Ry./Lucknow.

(BHAWA SAGIA)

T.O.M.I. under
G.O.L., R.F. Ry./Lucknow.

भवसागर

महोदय
प्रमुख
आयुक्त
आयुक्त

सर्टीफिकेट क्रम सं०

लीविंग सर्टीफिकेट

नम्बर

केवल जिला परिषद के विधानय के प्रयोग हेतु

स्कूल तथा रजिस्ट्रारकृत क्रम सं०...

मण्डल जिला:-

विवरण

[अ] नाम काटने का कारण-

नाम विद्यार्थी

[व] आचरण...

जन्म तिथि

[स] नाम उच्च परीक्षा जो उत्तीर्ण की

स्कूल छोड़ते समय आयु

उत्तीर्ण तिथि-

वर्ष...

अथवा कक्षा जिससे नाम कटा -

पिता का नाम-

- [द] विद्यार्थी की भाषा [हिन्दी या उर्दू] -

जाति [यदि हिन्दू हो अन्यथा धर्म] -

अन्य आवश्यक सूचना -

निवास स्थान

[१] अर्द्ध न वह निशुल्क -

वर्तमान जिला

[२] शिक्षा निर्दिष्ट तिथि में -

उ० प्रदेश में रहने की अवधि-

[अ] स्कूल खुलने की दिन सं० -

प्रथम स्कूल प्रवेश का दिनांक-

[व] विद्यार्थी की उपस्थिति सं० -

प्रवेश रजिस्टर की क्रम संख्या

[स] बीमारी की दिन सं०

स्कूल प्रवेश का अन्तिम दिनांक

[द] पिता का व्यवसाय

स्कूल प्रवेश की अन्तिम क्रम संख्या

नाम काटने का दिनांक -

1890

दिनांक

मास

वर्ष

हस्ताक्षर प्रधानाध्यापक

नोट-१ - उपयुक्त उल्लेख शुद्ध और सुन्दर हो तथा प्रधानाध्यापक अपना हस्ताक्षर करें।

- २ सर्टीफिकेट का लेख प्रवेश रजिस्टर के अनुसार हो।

- ३ आचरण संक्षेप में लिखा चाहिये।

- ४ स्कूल छोड़ते समय की गणना नाम कटने की तिथि तथा जो नाम सर्टीफिकेट देने की तारीख तय नहीं।

भवसुन्दर

12th May 1890

Principal

...

Insurance fee Rs. P. (In words)

rates
grams

No. 1791

R. P.-51 (a)

Stamps affixed except in case of uninsured. Rs. P. red letters of not more than the initial weight prescribed in the Post and Telegraph Guide on which no acknowledgment is due.

Received a V. P. registered* addressed to.....

* Write here 'letter', 'parcel' or 'railway receipt' of Receiving Officer with the word 'insured' before it when necessary.

To be filled in only when the article is to be insured; otherwise to be crossed out by means of two diagonal lines.

Insured for Rs. (in figures) (in words)

Insurance fee Rs. P. (In words)

weight
rates
grams

No. 1792

R. P.-51 (a)

Stamps affixed except in case of uninsured. Rs. P. red letters of not more than the initial weight prescribed in the Post and Telegraph Guide on which no acknowledgment is due.

Received a V. P. registered* addressed to.....

* Write here 'letter', 'parcel' or 'railway receipt' of Receiving Officer with the word 'insured' before it when necessary.

To be filled in only when the article is to be insured; otherwise to be crossed out by means of two diagonal lines.

Insured for Rs. (in figures) (in words)

Insurance fee Rs. P. (In words)

weight
rates
grams

MAHARAJA

Handwritten notes and signatures at the bottom of the page.

5/12/88

३॥॥पी.सी.मधुसागर १८९

अनंत सागर (डो. सी. पागा I)

अधीन ३२.११/१२०००

अधीन ५ (००) ५१

अधीन ५

दि ५.१२.८९

वि जन्मतिथि

आपका आवेदन पत्र दि १५.६.८९

आपके उपरोक्त प्रतिवेदन के आधार पर केश की जाय
 है कि आपने इस सम्बन्ध में दि १.८.७३ के पूर्व
 अपना मूल की तिथि से ५ वर्ष के अन्तर आपने कोई
 भी आवेदन पत्र नहीं दिया है अतः वर्तमान विपक्ष के
 अन्तर्गत कोई कार्यवाही करना निम्नानु ~~सूचना~~-कूल
 नहीं है। इसके अतिरिक्त यह भी उचित किया जाता है
 कि आपने रिपोर्ट के जन्मतिथि १.१.१९३२ अंकित है।
 अतः इसी के आधार पर आपने सेवा निवृत्ति ३१.१२.८९
 प्राप्त है कि रिपोर्ट के जन्मतिथि के संशोधन का कोई
 औचित्य नहीं है।
 अतः उपरोक्त का मोहो प्राप्त है।

A. S. S.

हेतु २५/१२/८९

अधिसूचना

343

11-2-47

sd/-
K.B. LALL)
Joint Director, Estt.(N)
Railway Board.

→ अक्षरान्त ---

~~Banning~~

77

B96

Amepure ~~A-58~~ 48

आदेश नमून नि प्रमाण(वर्गिक)
कुपेता लिने,
रामपुर
कमलिका - यदीन,

महा प्रमाण(वर्गिक), गीतपुर के वर को 01/11/48/10/सुव
दिनांक 24/25-12-81 के अनुसार की जारी प्रमाण फाफा सम्बन्धित केवत
(196-932) गीतपुर की कर्मस्थिति 4.7.29 मल की के अति कहीं उही प्र
255-249
मल
तथा विलयन मल, गीतपुर लिना वला के वीर अर्ध प्रमाण सम्बन्धित केवत
के वर पर गीतपुर लिने लिना वला के ।

कर्मस्थिति की तारीख 1-10-80 (मल के वैधानिकता के वी) के गीतपुर
विलयन वला के विधि तर्क वीर लिने मला मला के वीर कर्मस्थिति की वी. भी
वैधानिकता के वीर लिने के वीर विधानमाला जमा करना वीना ।
वर को वर प्रमाण सम्बन्ध की वीर लिने वीर लिने लिना वला के ।

को प्रमाण नि प्रमाण(वर्गिक)

पत्र 22/1/परिणी वरी।। (इति 3282 - वर) ।

प्रमाणित मलानि नि प्रमाण वरस्थिति के वी प्रमाण ।

- 1. महा प्रमाण (वर्गिक) / गीतपुर ।
- 2. विलयन मलानि / गीतपुर । (5) विलयन मलानि / गीतपुर ।
- 3. कर्मस्थिति वला / वर । (5) प्रमाण लिने लिने, लिने ।
- 4. प्रमाण लिने लिने लिने लिने ।
- 5. की वीर प्रमाण फाफा सम्बन्धित केवत ।

को प्रमाण नि प्रमाण(वर्गिक)
वर ।

अवतार

T/E
Beecham

Form 1007

Amroha A-17

24

1875

P. & Railway

Office of the
General Manager (C)

Gorakhpur

No. 771/7 (P), 10000

Dated: 18-12-1984

The Divisional Railway Manager (C),
P. & Railway,
Tacknow.

Subj - Date of Birth of Sri Shankar Ali
T.T.M. Grade I.

Ref - Your letter No. 711/20 dated 1-10-84 and
18-11-84. In dated 21-11-84.

In reference to your letter quoted above it is
informed that Chief Personnel Officer has decided that
in view of recommendation of T.T.M./Tacknow and the
records made available, the date of birth of Sri Shankar
Ali may be altered to 1-8-33 (first August nineteen hundred
thirty three).

Please take action and inform the employee accordingly.
The P/Cs containing 2000, CB/R and B/Folder in 13 Folios
are returned herewith.

Sd/-

DV/ is above.

General Manager (C)

मन्मथगुप्त

T/c

Byadlawe

In the Central Administrative Tribunal, Lucknow.

(26)
396

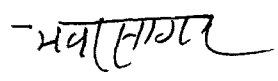
Original Application No. of 1989.

Bhawa Sagar ... Applicant
Versus
Union of India (I.I. Railway) ... Respondent

TERMS OF AUTHORIZATION FOR AGENT.

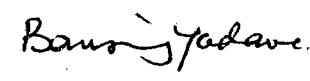
I Bhawa Sagar applicant do hereby appoint Shri.
Bansraj Yadava A/c U-322, Indira Nagar Colony, Lucknow
as an agent in my case. His consent is given below.

Date & 12-12-1989


Applicant

I Bansraj Yadava A/c U-322, Indira Nagar Colony,
Lucknow give consent to work as an agent on behalf
of Bhawa Sagar, applicant.

Date & 12-12-1989


(Bansraj Yadava)

NS/CCS

64

वकालतनामा

Forble. Central Administrative Tribunal Bench Lucknow

के समक्ष

O.A. 337/88 (L)

के न्यायालय में

Bhawan Prasad

वादी
प्रतिवादी

दावेदार
अपीलार्थी

प्रतिवादी
वादी

Union of India & Ors

अर्जीदार
प्रत्यार्थी

A. N. Sharma & B. K. Sinha

भारत के राष्ट्रपति इसके द्वारा श्री

Sanjay K. Sinha & Ors

को उपर्युक्त वाद/अपील/कार्यवाही में भारत संघ की ओर से उपसजात होने, कार्य करने, आवेदन करने, अभिवदन करने और आगे कार्यवाही करने के लिए दस्तावेज दाखिल करने और वापस लेने, न्यायालय की आदेशिका स्वीकार करने, काउन्सेल, अधिवक्ता या प्लीडर नियुक्त करने और उन्हें अनुदेश देने, खर्चा वापस लेने और उसका निक्षेप करने तथा उपर्युक्त वाद/अपील/कार्यवाही में भारत सरकार का साधारण प्रतिनिधित्व करने और भारत संघ के लिए इस प्रकार उपसजात होने, कार्य करने, आवेदन करने, अभिवदन करने और आगे कार्यवाही करने की अनुषांगिक सभी बातें करने के लिए नियुक्त और प्राधिकृत करते हैं। किन्तु यह इस शर्त के अधीन रहते हुए होगा कि जब तक भारत सरकार के समुचित प्राधिकारी से उस निमित्त पहले ही स्पष्ट प्राधिकार प्राप्त नहीं कर लिया गया है, तब तक उक्त काउन्सेल/अधिवक्ता/प्लीडर या उसके द्वारा नियुक्त काउन्सेल/अधिवक्ता/प्लीडर सभी या किसी प्रतिवादी/प्रत्यासी/अपीलार्थी/वादी/विरोधी पक्षकार के विरुद्ध उस वाद/अपील/दावा/प्रतिरक्षा/कार्यवाही को पूर्णतः या भागतः न तो वापस लेगा, न उसका अधिग्रहण करेगा, न ऐसा कोई करार करेगा या समझौता करेगा जिसके द्वारा वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित की जाए और न उससे उद्भूत या उसमें विवादग्रस्त सभी या किसी विषय को मध्यस्थ को निर्दिष्ट करेगा, परन्तु आपवादिक परिस्थितियों में जब भारत सरकार के समुचित प्राधिकारी से परामर्श करने के लिए पर्याप्त समय नहीं है और वाद में समझौता करने में शेष करना निश्चित रूप से भारत सरकार के हित के प्रतिकूल होगा तो उक्त प्लीडर/अधिवक्ता/काउन्सेल ऐसा कोई करार या समझौता कर सकेगा जिसके द्वारा उक्त वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित हो जाय और ऐसे प्रत्येक मामले में काउन्सेल/अधिवक्ता/प्लीडर करार या समझौता करने के विशेष कारण बताते हुए उक्त अधिकारी को तत्काल संसूचित करेगा।

राष्ट्रपति इस प्राधिकार के अनुक्रम में श्री.....

A. N. Vigra B.K. Chak

Secretary, Government of India

द्वारा किए गए सभी कार्यों का अनुसमर्पन करने को सहमत हैं।

इसके साक्ष्यस्वरूप भारत के राष्ट्रपति के लिए और उनकी ओर से इस विलेख को आज तारीख.....को साक्ष्य रूप से निष्पादित किया जाता है।

तारीख..... 19

NER-64850403-8000-4 7 84

Accepted
The Shukla
Advocate

(Signature)
निष्पादन करने वाले अधिकारी का पदनाम
प्रतिनिधि

In the Central Administrative Tribunal, Lucknow.

M. P. No. 450/90(L)

Misc. Application No. of 1990.

In

Original Application No. 337 of 1989.

f. f. 16/8/90

Bhaw Sagar ... Applicant
Versus
Union of India and others (W.f.R.) ... Respondents

Take notice that the Court will be moved
by the undersigned on 16.8.1990 at 10.30 O'clock
in the forenoon or soon after as the parties or
their counsel be heard.

The object of the motion is enclosed.

Encs: As above.

Lucknow:

Dated: 25-6-1990

[Signature]
Applicant

[Signature]
Advocate

[Signature]
Shri B. K. S. ... Advocate,

Central Administrative Tribunal, Lucknow
Counsel for the Respondent.

Filed today
25/7/90

[Signature]
To
Deputy Secretary

[Signature]
B. K. S. ...
Dated: 25/7/90

25/7/90

129a

Misc. Application No. of 1990

In

Original Application No. 337 of 1989.

Bhaw Sagar ... Applicant

VU RS18

Union of India and others (N/A) ... Respondents

Fixed For 16-8-1990.

Index of Papers filed.

<u>S.No.</u>	<u>Description of Paper.</u>	<u>Page</u> <u>From</u>	<u>To</u>
1.	Application for grant of Interim Relief.	1	2
2.	Application for early hearing of original application.	3	4
3. (a)	Application for permission to file additional documents.	5	6
(b)	Annexure A-10 - Letter dated 4-2-1987.	6	7

Encl: 13 above.

They know:

Dated: 25-6-1990

Applicant.

Recd by you
Aimee

1/

B/100

In the Central Administrative Tribunal, Lucknow.

M. P. No. 450/90 (L,

Misc. Application No. of 1990

In

Original Application No. 337 of 1989.

Bhaw Sagar ... Applicant

versus

Union of India and others (M.F.Rly) ... Respondents

Filed For 16-8-1990.

APPLICATION FOR GRANT OF INTERIM RELIEF.

The applicant most humbly beg to submit as under -

1. That the Original Application was filed on 12th December 1989 for declaration of date of birth together with prayer of Interim Relief for stay of his retirement on 31-12-1989.
2. That the Original Application was admitted on 26-12-1989, but the Interim Relief was not granted. As such the applicant was retired on 31-12-1989.
3. That while refusing the Interim Relief, the Hon'ble Tribunal was pleased to decide the Original Application on 13-2-1990. But reply on behalf of Respondent has not yet been filed.
4. That the applicant was retired on 31-12-1989 but his settlement and payment of Pension is held up on account of the Original Application and applicant is put to starvation.

29/11/90

Contd. . . . (2)

B/O

5. That if the Original Application succeeds, the applicant is entitled for salaries from 1-1-1990 and if it fails, the applicant is entitled for Pension from 1-1-1990.

6. That it is just and expedient to the interest of justice to grant Interim Relief for payment of ^{Pay or Pension} ~~Subsistence Allowance~~ ^{provisional} from 1-1-1990 to the applicant equal to monthly pension subject to adjustment from pay or pension of the applicant during the pendency of the ~~xxx~~ original application. ~~for maintenance of the applicant.~~

7. Wherefore it is prayed that Hon'ble Tribunal be pleased to grant Interim Relief for payment of ^{Pay or Pension} ~~Subsistence Allowance~~ ^{provisional} to the applicant by Respondents equal to his Monthly Pension from 1-1-1990 during the pendency of Original Application, subject to adjustment in his Pay ~~and~~ or Pension on the result of Original Application in the interest of justice.

Tucknow:

Dated: 25-6-1990.

Verification

I Bhaw Sagar S/o S. K. S. S. S. R/o P.No.

1/ S.H. V. S. K. S. S. S.

Gomti Nagar, Colony, Tucknow do hereby verify that the contents of paras 1 to 7 of the application are true and nothing has been concealed. Verified and signed on this 25th day of June, 1990 at Tucknow.

[Signature]
Applicant

B/02

In the Central Administrative Tribunal, Lucknow.

M. P. No. 451/90 (C)

Misc. Application No. of 1990

In

Original Application No. 337 of 1989.

Bhaw Sagar ... Applicant

versus

Union of India and others (N.R.) ... Respondents

Fixed For 16-8-1990.

Application for early hearing of the Original Application.

The applicant most humbly submit as under :-

1. That the Original Application was filed on 12th December/89 for declaration of date of birth together with a prayer of Interim Relief for stay of his retirement on 31-12-1989.
2. That the Original Application was admitted on 26-12-1989 but the Interim Relief was not granted. So the applicant was retired on 31-12-1989.
3. That while refusing the Interim Relief the Hon'ble Tribunal was pleased to decide the Original Application finally on 13-2-1990. But the reply on behalf of Respondent has not been filed as yet and the next date is fixed for disposal of amendment application on 16-8-1990.
4. That the applicant was retired on 31-12-1989. His settlement and payment of pension is held up on account of the writ petition. Hence the applicant is put to starvation.
5. That the applicant will suffer irreparable losses in future if the Original Application is not finally heard at an early date.

Contd. (2)

Signature

-- 2 : --

6. That it is just and expedient for the end of justice. That the application may be heard early.

Wherefore it is prayed that the Hon'ble Tribunal be pleased to hear the amendment application and original application at an early date.

Truly yours

Dated: 25-6-1990.

21/9/1990
Applicant

Truly yours
Shrover

In the Central Administrative Tribunal, Lucknow.

M. P. No. 452/90 (2)

Misc. Application No. of 1990.

In

Original Application No. 337 of 1989.

Bhaw Sagar ... Applicant

Versus

Union of India and others. ... Respondents

Fixed for 16-8-1990.

Application for Permission to file additional documents.

The applicant most humbly beg to submit as under:-

1. That it is just and expedient for proper adjudication of the case to file some additional documents.
2. Wherefore it is prayed that the Hon'ble Tribunal be pleased to allow the following document to be taken on record for proper adjudication of the ~~xxxx~~ case.

List of document filed.

- (1) Annexure A-10 - Copy of Office Order No. 4/PQ/
Ramishwar Pd./M & T Driver dated
4-7-1987 for alteration of date
of Birth.

Encls: As above

Lucknow:

Dated: 25-6-1990.

[Signature]
Applicant

[Signature]
Adm. Officer

पूर्वोक्त रेलवे

जर्जियन-अवैश

श्री रामेश्वर प्रसाद (अ०जा०) वातक 'ए' सीरल 550-750 लीगेरीड
गोरखपुर को जिन्हे एक्टिस फील्ड / सेवापुस्तिका में अंकित जन्मतिथि दिनांक 16/2/28
के अनुसार 58 वर्ष की आयु पूर्ण करने पर दिनांक 28/2/86 के पद से
सेवानिवृत्त होना था किन्तु ४ अक्टूबर डाइरेक्टर इस्टेबलिशमेंट रेलवे बोर्ड के
टेक्नीकल एडिष जी अतिरिक्त मुख्य कार्मिक अधिकारी गोरखपुर के तार सं०-
९/71/8/अ०जा० 111/1 x दिनांक 28/2/86 द्वारा इस कार्यालय को सूचित
किया गया था के अनुसार एने । इस तार सेवा में दिनांक 31/3/86 तक
रवाने के आद सेवानिवृत्त किया गया था ।

उपरोक्त कर्मचारी को जन्मतिथि में परिवर्तन संबंधी प्रार्थना पर विचार
कर रेल परिषद के तार सं० 86/९(९४०१०००)ना/4/4 दिनांक 6/5/87
सर्व मध्यप्रबन्ध (अ०) गोरखपुर के तार सं० ७/71/8/अ०जा० 111 x दिनांक
13/5/87 द्वारा सेवापुस्तिका व अर्थस फील्ड में अंकित जन्मतिथि दिनांक 16/2/28
को परिवर्तित कर 12/7/33 कर दिया गया तथा सेवानिवृत्ति को तिथि दिनांक
1/4/86 व प्रुदा देने की तिथि के मध्यावधि पास की " अर्जमान " तारसे
पुर सुन्त हसुली देने के अर्थ दिने की है ।

उपरोक्त के अनुमान में श्री रामेश्वर प्रसाद के दिनांक 29/6/87
की इस कार्यालय में उपस्थित होने पर सीरल मेडिकल के लिए प्रचार डा०एम०बी०जी०
गोरखपुर के पास भेजा गया और जिन्हे प्रचार मंडल विक्रिसाधिकारी पूर्वोक्त रेलवे
गोरखपुर द्वारा प्रमाण पत्र सं० 29 दिनांक 2/7/87 द्वारा ए/1 मेडिकल कैटेगरी में ४
फिट घोषित किया गया , का वातक 'ए' सीरल 550-750 अज मेल एसएस
वातक 1640-2900 के पद पर नियुक्त कर लीको रैड गोरखपुर में पद स्थापित
किया जाता है, मेडिकल प्रेस वातक के पद पर नये लीकोषित वेतनमान में 2675 /-
निर्धारित किया जाता है । सर्व मध्यावधिकार दिनांक 1/4/86 से 28/6/87 तक
का नियमन " अर्जमान " में किया जाता है ।

यह प्रचार डेल यात्रिक इन्वोनियर द्वारा अनुमोदित है ।

हो

मुख्य डेल रेल प्रबन्ध (अ०)

अनज

१५४४.२/५२

अवतुगा

J. S. S. S.

J. S. S. S.

- 2 -

सं. १/१०२४० / तारीख २२/११/७३ का. दिनांक ४/७/७७

प्रतिष्ठान निम्नलिखित की सुचनाएं एवं कार्यवाही

की है:-

- (१) प्रत्येक (१०) गोपनीय को उनके घर को.का/११/७/सं.का/१५
तारी. १३/७/७७ के तारी. में ।
- (२) प्रत्येक / प्रत्येक ।
- (३) निम्नलिखित / गोपनीय ।
- (४) प्रत्येक (१०) को.का/११/७/सं.का/१५ ।
- (५) प्रत्येक को.का/११/७/सं.का/१५ / न.३ ।
- (६) प्रत्येक को.का/११/७/सं.का/१५ ।
- (७) प्रत्येक को.का/११/७/सं.का/१५ ।

RJ
57/10/77 at 10/45

90
57/10/77

MAA/77

को.का/११/७/सं.का/१५ (१०)
प्रत्येक ।

Tracy
Hench

अ.प्र.का/११/७/७७

3109

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL :

Circuit Bench, Lucknow.

O.A. No. 337 / 90 - L

BHAVSAGAR

...

Applicant

Versus

UNION OF INDIA AND ANOTHER ...

Respondents.

Counter Reply on behalf of the

Opposite Parties.

I, *S. M. N. Varma* aged about 36 years,
son of *S. M. C. Varma* working as *Sr. Div. Head*
Officer in the North-Eastern Railway, Lucknow, duly
authorised by the opposite parties, do hereby solemnly
affirm and state as under : -

I have read the contents of the application
and have understood the same well and as such I am
fully conversant with the facts and circumstances
deposited to here in under : -

1. That the contents of para 1 of the application
need no comments.
 2. That the contents of para 2 of the application
need no comments.
 3. That the contents of para 3 of the application
need no comments.
- Noted* *13/12/90*

4. That the contents of para 4 of the application are being replied as under : -

4(i). That the contents of para 4 (i) of the application need no comments.

4(ii). That the contents of para 4(ii) of the application need no comments.

4(iii). That the contents of para 4(iii) of the application are wrong, hence denied as stated and in reply thereto it is stated that the applicant's date of birth as 1-1-1932 was correctly recorded in the records of the Railway Administration.

From a perusal of the service record it will be seen that 'A' Card is not available in the Folder and the Medical Certificate issued at the time of appointment is also missing. However the Service Book ^{on account of being pension application} which was prepared in the subsequent years in 1987 on the basis of previous service sheets, is available in the folder wherein the applicant's date of birth has been recorded as 1-1-1932 and which has been attested by the then A. P. O.

As per the applicant's version his date of birth should have been recorded as 1-1-1937 as per School Leaving Certificate produced by him. It appears that at the time of his appointment, he did not produce the said Certificate for the following possible reasons : -

(1) It is worth mentioning that the applicant was appointed on 4-1-1955 on the post of Khalasi in the scale of Rs. 30 - 35.

(2) As per the applicant's School Leaving

Certificate the applicant's date of birth is 1-1-1937. Accordingly at the time of appointment, that is, 4-1-1955, he was only 18 years and 3 months old.

It would not be out of place to point out that prior to his date of appointment, some Notification for appointment should have been done ~~which~~ much earlier to 4-1-1955. There should have been some selection process earlier to the date of appointment and the applicant should have been medically examined for fitness for getting the appointment

In view of the facts mentioned above, it goes to prove that the applicant was under age prior to 4-1-1955 that is, below 18 years, hence at the time of submitting the application for appointment before the Railways, he concealed his actual date of birth and declared a false date of birth in order to get appointment in the Railway Administration. After a lapse of years, the applicant only submitted an application dated 19th March, 1989 alongwith School Leaving Certificate for the alteration of his date of birth and the competent authority, that is, the Senior Divisional Personal Officer, Lucknow ^{ct} Junction, passed the orders that there is no justification to alter the recorded date of birth of the applicant at this stage.

In the applicant's old Leave Account, his date of birth has been recorded as 1-1-1932 and

Signature
29/11/89

- 4 -

accordingly he has correctly been retired on
31-12-1989

4(iv): No comments are required in reply to para
4(iv) as the same has already been replied in
the preceding para of this Reply. It is
presumed that the applicant declared his date of
birth as 1-1-1932 at the time of his appointment.

4(v) : That the contents of para 4(v) of the
application need no comments as the same are
admitted. It is, however, stated that on this
very point, the applicant's application for change
of date of birth is liable to be rejected.

4(vi) : That in reply to para 4(vi) of the applica-
tion it is stated that Annexure No.A.5 to the
Application regarding alteration of date of birth
does not appear to have been received as per
record available in the office.

4(vii) : That in reply to para 4(vii) of the applica-
tion, it is stated that no such application appears
to have been received in the office as per records
available.

4(viii): That the contents of para 4(viii) of the
application are not admitted and in reply thereto
it is stated that no such application was received,
hence the question of acceding to the applicant's
request does not arise. If the applicant did not
receive any reply to his alleged application, then
he should have submitted reminder in this regard.

Shri 2/1/89
13/1/89

4 (ix): That in reply to para 4(ix) of the application it is stated that the contents thereof are admitted to the extent that the applicant submitted an application dated 14th June, 1989 and the application was replied in terms of Divisional Railway Manager (P) , Lucknow Junction ,letter No.E/JT/PC/Bhavsagar dated 4th December, 1989. Anything contrary to this is denied.

4 (x) : That the contents of para 4(x) of the application need no comments as the same has already been replied in the preceding paragraph of this Reply.

4(xi) : That in reply to para 4(xi) of the applica-

tion it is stated that the applicant's application dated 19th March, 1989 was dealt with and he was replied vide letter dated 4th December, 1989. anything contrary to this is denied.

4(xii) : That in reply to para 4(xii) of the application it is stated that the cases of individuals mentioned therein have been dealt with on merit. It is further submitted that the applicant's case was considered by the Senior Divisional Personnel Officer and was decided and replied accordingly as stated in the foregoing para of this Reply.

4(xiii). That in reply to para 4(xiii) of the application it is stated that the applicant's date of birth was recorded as 1-1-1932 in the Railway

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records, hence the question to retire him on 31-12-1994 does not arise. Anything contrary to this is denied.

4(xiv): That in reply to para 4(xiv) of the application it is stated that the applicant has rightly been retired on 31-12-1989 in view of the above averments. The contents of para under reply have got no force, hence are denied as stated.

In addition to the above, it is further submitted that in the Seniority List published from time to time, the applicant's date of birth has been recorded as 1-1-1932 and the applicant never disputed at the early stage. Hence at this belated stage alteration in the date of birth of the applicant is not possible.

5. That in reply to para 5 of the application it is stated that the Grounds and legal provisions taken therein are false, frivolous and fabricated and as such these are not sustainable in the eyes of law and the application deserves to be dismissed throughout.

6. That the contents of para 6 of the application need no comments in view of the foregoing paras of this Reply. It is further submitted that there is no such application available on the record dated 4th April, 1973.

7. That the contents of para 7 of the application need no comments.

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7. That in reply to para 8 of the application it is stated that the applicant does not deserve any Relief as prayed in view of the foregoing paras of this Reply.
8. That in reply to para 9 of the application it is stated that the applicant does not deserve any interim relief in view of the facts and circumstances narrated above.
10. That the contents of para 10 of the application needs no comments.
11. That the contents of para 11 of the application need no comments.
12. That the contents of para 12 of the application need no comments.

Dated Lucknow :
March 12 1991.

(Shri. W. J. 13/3/91)

Verification

I, S. M. N. (S. M. N.) the above named, do hereby verify that the contents of paras _____ of this Counter Reply are true to my personal knowledge and those of paras 1-12 of this counter reply are true on the basis of knowledge derived from the perusal of records relating to the instant case kept in the official custody of the answering respondents except legal averments which are believed by me to be true on the basis of legal advice. No part of this counter reply is false and nothing material has been concealed.

(R. V. Shukla)
Shri. W. J. 13/3/91

Final Copy for Subscribed

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In the Central Administrative Tribunal, Lucknow.

Rejoinder

B114

In

O.L. No. 337 of 89 (T)

In the matter of:

Shama Sagar	...	... Applicant
...	versus	...
Union of India and another.	...	... Respondent

Fixed for 6-8-1991

Rejoinder to Counter Reply by Respondents.

It is most humbly submitted as under :-

1. That para 1 of Counter Reply (in short C.R.) need no comment.

2. That para 2 of C.R. need no comment.

3. That para 3 of C.R. need no comment.

4(i) That para 4(i) of C.R. need no comment.

4(ii) That para 4(ii) of C.R. need no comment.

4(iii) That the contents of para 4(iii) of C.R. are denied and the contents of para 4(iii) of Original Application (in short O.A.) are re-iterated. It is further submitted that the applicants' date of birth as 1-1-1922 was not correctly recorded in the records of railway administration. The Card is a important document as also medical certificate relating to service records. Their missing is an irrespon-

Contd. (2)

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Amended 16/11/85

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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Registration No.1097 of 1986(T)

(Original Suit No.545 of 1985)

Re. Nath Rai

.....

APPLICANT
(Plaintiff)

Vs.

Union of India through Secretary,
Ministry of Defence, (Defence
Productions) and others

RESPONDENTS
(Defendants).

Hon. Justice S. Zahoor Hasan, Vice Chairman

Hon. Ajay Johri, Member(A).

(delivered by Hon. Zahoor Hasan, V.C.)

Suit No.545 of 1985 has been trans-
ferred to this tribunal by Munshi City, Kanpur,
under section 29 of the Administrative Tribunals
Act, 1985.

On 9.4.1985 the plaintiff Raj Nath
Rai filed a suit for injunction directing the
defendants to record the date of birth of the
plaintiff as 12.9.1942 instead of 22.8.1938, as
recorded in his service book.

The plaintiff joined Service as
Fitter in the Ordnance Equipment Factory, Kanpur,
on 27.8.1963. At that time he gave his age as
20 years and also mentioned that he had passed
High School. On 22.8.1963 the Medical Officer
examined the plaintiff and assessed his age as
25 years. So his date of birth was recorded as
22.8.1939 (August 1963 minus 25 = August 1938)

According to the plaintiff,

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he came to know that his date of birth was wrongly recorded in the service book when he received his permanent identity card. He made representation in this connection soon thereafter. He again made a representation for correction of his date of birth on 2.11.1982, wherein he referred to a representation made three years back for amendment of his date of birth. He sent reminders on 24.1.1983 and 6.9.1984 saying that his request for change in the recorded date of birth could not be acceded to under the existing rules.

The defence is that the plaintiff himself gave his age as 20 years on 27.8.1963, but the doctor assessed his age as 15 years, so in the service record his date of birth was recorded as 22.8.1938. He signed the service record and he also had the identity card in which the same date was recorded, but he never challenged the same. His first representation was made on 2.11.1982 after great lapse of time, which was rightly rejected.

The simple question to be decided is as to whether the plaintiff has proved by cogent evidence that he was born on 12.9.1942, and not on 22.8.1938, as recorded in his service book. On the one hand there is the entry in the service book and identity card plus medical assessment, and on the other hand there is the entry in the High School certificate showing that the plaintiff was born on 12.9.1942 and he passed his High School examination in March, 1958.

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The plaintiff belongs to Bihar. His case is that before his employment he came to one of his relations, Sri S. S. Sinha, who was employed in this Factory, and while he was living with him he got a chance of appointment, so on 27.8.1963 he was appointed as a fitter, and since he did not have his High School certificate with him, as he gave his age roughly as 20 years. It was a semi-skilled post, so the authorities never asked him to produce the High School certificate in proof of his age. It may be that he signed his service book on 23.11.1967 in a mechanical way without noticing the date of birth recorded therein. When he got the identity card on 3.8.1979 he came to know that his date of birth was recorded as 22.8.1938. In the police verification report his date of birth is recorded as 12.9.1942.

Though the police verification report was examined, the authorities failed to produce the same. In the High School certificate the plaintiff's date of birth is recorded as 12.9.1942. It was mentioned at the time of his appointment that he had passed the High School examination. According to his claim he was about 16 years old when he passed his High School examination, and if the service record is taken as correct, he was 20 years old when he passed the High School examination, which is not the normal age for a student to pass the High School examination. Of course, everything is possible, but the richness of human experience

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has taught us to prefer probable over possible.
In the identity card which was issued on 18.8.1979
the date of birth is recorded as 22.8.1938, and
when he came to know about this entry he made a
representation. Thereafter he made several
other representations and ultimately his claim
was not accepted.

On 22.8.1963 the plaintiff was
medically examined and the doctor gave his age
as 25 years on a rough estimate. By adding 25 to
August 1938 the date of birth was written as
22.8.1938. This arithmetical calculation was
done on a rough basis and appears to have been
taken as correct simply because the entry in the
service book on that basis remained unchallenged
for a long time and at one place in the service
book the plaintiff had put his signature. As
already stated, it may be that the plaintiff
had put his signature in a mechanical way, and when
he came to know about the date of birth recorded
in the service book through the identity card, he
started challenging the same. The date of
birth as recorded in the service book on the basis of
medical evidence is definitely not accurate.
There seems to be no good reason to disbelieve
the High School Certificate, specially when it
was mentioned at the time of the plaintiff's entry
in the service that he had passed High School
examination. He belonged to Bihar, and it may be
that at the time of his entry in the service he did
not have his High School certificate with him, so
he gave rough estimate of his age, since it was a

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case of appointment of a semi-skilled worker.

So the plaintiff has proved by cogent evidence that his date of birth as recorded in the service book (i.e., 22.8.1938) is incorrect.

The plaintiff's suit is decreed with costs on parties, and the defendants are directed to correct the plaintiff's date of birth as 12.9.1942 instead of 22.8.1938, which is entered in his service record.

Sd/-

Sd/-

Chairman

Member (A)

Dated January 20th, 1947.

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SECRETARY
GOVERNMENT OF INDIA

True copy sent to
The Secretary
Mohd. Ali
Advocate
Council of the applicant

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CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW.

O.A.NO. 337 of 1990 (L)

Bhawa Sagar ... Applicant.
Union of India & Others... Versus Respondents.

16.8.1990

Hon'ble Mr. P.Srinivasan, A.M.
Hon'ble Mr. J.P.Sharma, J.M.

Shri Mohd. Ilyas for the applicant.

Shri B.K.Shukla for the respondents.

M.P.236/90 has been filed by the applicant to amend the prayer in the O.A. The M.P. is allowed and the applicant will carry out the amendment in O.A. within 15 days from today.

2- In M.P. 450/90 the applicant, who has been retired from service with effect from 31.12.89, seeks provisional pension from 1.1.90 equal to the monthly pension which is normally due to him. We direct the respondents to determine the provisional pension payable to the applicant and to disburse it to the applicant within two months from the date of receipt of this order subject to the applicant's fulfilling all the required formalities in this regard.

3- M.P.451/90 has been filed by the applicant for early hearing of the case. Shri Shukla complains that he does not have a copy of O.A. Shri Ilyas undertakes to furnish a copy of the application to Shri Shukla within a week. Thereafter, at the request of Shri Shukla, permission is granted to the respondents to file reply within six weeks. The applicant may file rejoinder, if he so desires within two weeks thereafter. The applicant may thereafter move for early hearing.

4- M.P.452/90 filed by the applicant to add one document to the application as Annexure A-10 is allowed.

5- All the M.P.s listed above are disposed of accordingly.

Call on 17.10.90 before Deputy Registrar for reply and rejoinder.

Sd/

J.M.

Sd/

A.M.

// True Copy //

Umar Khali

Sd/

no.1/342 Viram Khali Ganti Nagar, Lucknow do hereby verify that the contents of paras 1 to 3 are true to my knowledge & verified and signed on this date 13th Feb, 1990 in Court Compound Lucknow.

Applicant.

Recd
H.A. 11/12/90
25/9/90

Checked by

24/9/90
4 10 95 6703

In the Central Administrative Tribunal, Allahabad,
Circuit Bench — Lucknow C.A. No. 236/90 (L)
Application No. 337 of 80 (L)

Bhawa Sagar Applicant

Versus

Union of India and others Respondent.

Dated for 13.2.1990

Application for amendment of application

The applicant most respectfully beg to submit
as under:-

1. That during ~~the~~ pendency of the application the applicant has retired on 31.12.89.
2. That it is just and expedient ^{for} the end of justice to make an amendment in the relief i.e. and if retired reinstated the applicant in service retrospectively from 01.01.90 with arrear of pay.
3. That wherefore it is prayed that the Hon'ble Tribunal be pleased to allow the following amendment to ~~be~~ incorporated in application.

List of amendment

- a) That at the end of para 3(b) the word and phrases be incorporated as under:-

" and if retired re-instate the applicant in service retrospectively from 01.01.90 with ^{arrear} area of pay, Allowances etc."

Dated: 13.2.1990

Applicant.

Verification

I, Bhawa Sagar, son of Shanker, resident of house no. 1/342 Vihar Khand Comti Nagar, Lucknow do hereby verify that the contents of paras 1 to 3 ^{are} true to my knowledge & verified and signed on this day of 13th Feb, 1990 in Court Compound Lucknow.

Applicant.

1st copy to Tribunal

encl.

In the central Administrative Tribunal, Allahabad,

Circuit Bench - Lucknow C.M. An No. 236/90(L)
Application No. 337 of 80 (L)

SM 13
11/4/90

Bhawa Sagar

... Applicant

Versus

Union of India and others Respondent.

Fixed for 13.2.1990

Application for amendment of application

The applicant most ~~re~~ humbly beg to submit
as under:-

1. That during ~~the~~ pendency of the application the applicant has retired on 31.12.80.
2. That it is just and expedient ^{for} the end of justice to make an amendment in the relief i.e. "and if retired reinstated the applicant in service retrospectively from 01.01.90 with arrear of pay".

3. ~~That~~ wherefore it is prayed that the Hon'ble Tribunal be pleased to allow the following amendment to ~~be~~ incorporated in application.

List of amendment

- a) That at the end of para 8(B) the word and phrases be incorporated as under:-

" and if retired re-~~instite~~ ^{instate} the applicant in service retrospectively from 01-01-90 with ^{arrear} ~~salary~~ of pay, allowances etc."

Dated: 13.2.1990

[Signature]
Applicant.

Verification

I, Bhawa Sagar, son of Shanker, resident of house no. 1/342 Viram Khurd Ganti Nagar, Lucknow do hereby verify that the contents of paras 1 to 3 ^{are} true to my knowledge. Verified and signed on this day of 13th Feb, 1990 in Court compound, Lucknow.

[Signature]
Applicant.

Received
B. Sagar
11/4/90

F. T.
11/4/90

In the Central Administrative Tribunal Lucknow.

Misc. Application No. of 1991(T)

In

C. I. No. 337 of 1989 (T)

In re:

Bhaw Sagar .. Applicant
versus
Union of India (W.F.R.) & others. .. Respondents

Take notice that the court will be moved by the undersigned on 14-3-1991 at 10.30 O'clock in the forenoon or/ soon after as the parties or their counsel be heard.

"The object of the Motion is enclosed."

Enc 1. is above.

Lucknow.

Dated: 28-1-1991
6/3/91

To

Sri B.K. Sinha Advocate,

Central Administrative Tribunal Lucknow

Counsel for the Respondent.

Applicant

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Counsel for Applicant

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In the Central Administrative Tribunal Lucknow. 199

Misc. Petition No. of 1991 (I)

In

C.A. No. 337 of 1989 (I)

Bhaw Sagar .. Applicant

VERSUS

Union of India (M.A.) & others. .. Respondents

Fixed for 6-3-1991.

Application for 'ex-parte' hearing of original application.

The applicant most humbly beg to submit as under :-

1. That the original application was filed on 12th December 1989 for declaration of date of birth together with a prayer of Interim Relief for stay of his retirement on 31-12-1989.
2. That the original application was admitted on 26-12-1989 but the Interim Relief was not granted. As the applicant was retired on 31-12-1989.
3. That while refusing the Interim Relief of stay of retirement the Hon'ble Tribunal was pleased to decide the original application on 13-2-1990. But the reply on behalf of respondent has not been filed as yet even after 16-8-90, 17-10-90, 22-10-90, 30-11-90 and 8-1-1990. The payment of retirement benefit is held up on account of original application.
4. That under S. 12 of Administrative Tribunal Act 85 the respondents have not filed the reply nor satisfied

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the Tribunal for non-submission of the reply as yet. Non-filing of the reply is willful, negligence and deliberate. A negligent and disobedient respondent deserves no condonation.

5. That on 16-8-90 the Hon'ble Tribunal was pleased to pass interim order for payment of provisional payment of the Monthly Pension within two months, but the said order has also not been complied with by the respondent even after lapse of 3 months.

6. That it is ^{not} reasonable and ~~non~~-bonafide to delay in filing the reply. The delay defeat the end of justice.

7. That it is just and expedient for the end of justice to proceed ex-parte - hearing of the original application.

P R A Y E R

8. Wherefore it is prayed that the Hon'ble Tribunal be pleased to ~~pass~~ ^{proceed} ex-parte hearing of the original application.

Dated: 28-1-1991
6 3 1991

VERIFICATION

x *Signature*
Applicant
Pradeep Kumar
Compl. for the Applicant

I Bhaw Sagar S/o Shankar R/o T.No. 1/311, Vihram Khand, Genti Nagar Colony, Lucknow do hereby verify that the contents of para 1 to 8 to the Misc. Petition are true on legal advice and that I have not suppressed any material fact.

Lucknow:

Dated: 29-1-1991
6 3 1991

x *Signature*
Applicant

C 136

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

O.A. NO.337 of 1989 (L)

Bhawa Sagar

.....

Applicant.

Versus

Union of India & another

.....

Respondents.

26.12.1989

Hon'ble Mr. D.K. Agrawal, J.M.

Heard Sri Mohd. Ilyas, learned counsel for the Applicant.

Admit. Issue notice to the Respondents to file their
within 6 weeks. Rejoinder, if any, may be filed within 3
thereafter. List it on 13.2.1990 for orders / hearing, as
case may be.

So far as interim matter is concerned, I am satisfied th
no case for interim relief is made out and, therefore, the pr
for interim relief is rejected.

Sa/-

J.M.

*C. 136
15/12*

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Sickness Slip
In the Hon'ble Central Administrative
Tribunal
Circuit Bench Lucknow. C/32

S.H.
A C.A. No 337 of 1989

② Bhaw Sagar

vs.

Union of India

My lord,

The above noted case may kindly be
adjourned to some other date as my friend
Sri B.K. Shukla, counsel for the opp party
ie. Union of India (Uys) is unable to
attend the Hon'ble Court to day as he
is suffering with high "fever".

I shall be highly obliged to your
honourship if due consideration is paid
to my request and arrange to order for
adjournment.

Dt. 17-2-92

For B.K. Shukla
Advocate
for opp. party

Adv. to Sri
B.K. Shukla