

Registered A/D

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indira Nagar,
Bangalore- 560038
Dated the 27 August 1986

Application No 27/86(F)

Shri Vijayarangam Naidu

...

Applicant

Versus

1. Secretary to the Govt.
Ministry of Railways, New Delhi
2. General Manager, Southern
Railways, Madras
3. The Works Manager, Southern
Railway Workshop, Mysore

Respondents

A copy of the Judgement delivered on 28.7.'86 by Hon'ble Shri Ch.Ramakrishna Rao, Member(Judicial) on behalf of the Bench consisting of himself and Hon'ble Shri L.H.A. Rego, Member (Administrative) is forwarded herewith.

S. S. S. Kall.
R.

R.
SECTION OFFICER
(JUDICIAL)
ofc.

To

1. Shri Vijayarangam Naidu
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: Advocate for the
Applicant.

: Advocate for the
Respondents.

Issued
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20/8/86

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

CORAM :

Hon'ble Shri Ch. Ramakrishna Rao, Member(Judicial)
Hon'ble Shri L.H.A. Rego, Member (Administrative)

Application No: 27 of 1986(F)

Date of decision: 28-7-1986

Shri Vijayarangam Naidu : Applicant

Versus

1. Secretary to the Govt.,
Ministry of Railways, New Delhi

2. General Manager, Southern
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3. The Works Manager, Southern
Railway Workshop, Mysore

Respondents

Shri Ananda Ramu

: Advocate for the
Applicant.

Shri H. Shanmukhappa

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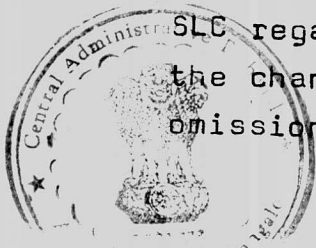
JUDGMENT

DELIVERED BY HON'BLE SHRI Ch. RAMAKRISHNA RAO, MEMBER(J)

The Applicant seeks a declaration that the office order 276 of 1985 dated 30-11-1985 issued by the office of the Works Manager, Mysore South (WMMS), Southern Railway (Respondent No.3) in so far as it relates to the Applicant is illegal and contrary to Rule 2046 of the Railway Establishment Code. The facts giving rise to the application are as follows:

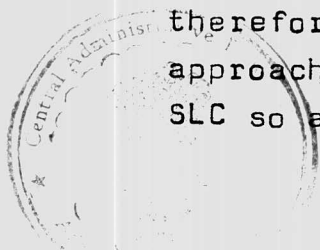
The Applicant joined service as Khalasi in Southern Railway at Mysore on 11-11-1954. On the basis of the date of birth (dob) entered in the School Leaving Certificate (SLC) issued by the Secretary, Secondary Education Board, Mysore, dated 8-11-1954, the dob of the Applicant was entered in the Service Register as 1-1-1928. Subsequently, on 14-11-1955, the Applicant obtained a Memo from the Office of the Director of Public Instructions (DPI) in Mysore wherein the dob was accepted as 4-1-1932. Thereupon, the Applicant requested the Respondent to effect necessary change in the Service Register regarding his dob. His request was however turned down. In 1973 he made a further attempt to have the dob changed in the service register but in vain. The Applicant has therefore filed this application.

2. Shri Ananda Ramu, learned counsel for the Applicant submits that his dob was wrongly entered in SLC as 4-1-1923; that he joined service in the office of the WMMS on 11-11-1954; that there was not adequate time left for getting the entry relating to the dob in the SLC altered before entering service; that within a year after joining service i.e. 14-11-1955 he got the entry altered in the SLC regarding his dob; that the WMMS was bound to effect the change in the dob in the service register and the omission on the part of the Southern Railway to do so,



has prejudicially affected his client, who is, therefore, entitled to the relief prayed for in the application. Shri M. Shanmugappa, learned counsel for the Respondents, submits that JMMS was not legally bound to act upon the dob of the Applicant as corrected in the SLC since it was not done after notice; that the Applicant had not informed JMMS at the time of entering service that his dob was wrongly mentioned in the SLC and he would be getting the same rectified by the office of the DPI; that the Applicant had mentioned in the application form dated 10-6-1954 that his dob was 4-1-1929 but in the 'descriptive roll of candidate proposed for employment in Southern Railway' filled up by him subsequently on 6-11-1954 he mentioned his dob as 4-1-1928 based on the entry appearing in the SLC at that time; that the applicant could have mentioned his dob as 4-1-1932 if that was the correct date and if he had the intention to get the rectification done in the SLC but refrained from doing so, for reasons best known to him; that in the aforesaid descriptive roll the Applicant himself wrote out the dob in his own handwriting as 4-1-1928 and, in the circumstances, the Respondents were not bound by the altered dob as appearing in the SLC.

In our view the Applicant, having chosen to alter his dob as given in his application form i.e., from 4-1-1929 to 4-1-1928 in the 'descriptive roll' filled up by him at the time of joining his service, is estopped from maintaining that his correct dob is 4-1-1932. In other words, the Applicant had consciously given a wrong dob in his application form, which he later corrected in the 'descriptive roll' at the time of joining service so as to make it ad idem with the date as originally stated in the SLC and it was, therefore, clearly an after thought on his part to approach the DPI and obtain a rectification of the SLC so as to make his dob read as 4-1-1932. It is

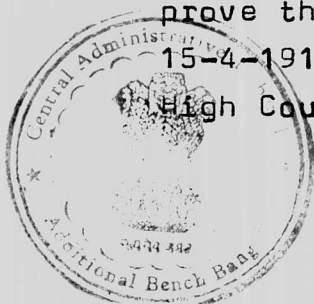


obvious that the same was done for obtaining an advantage in the matter of length of service without giving notice to the WMMS, in whose employment he was when he approached the DPI. We therefore hold that the respondents were not bound by the alteration in the dob as appearing in the SLC.

4. Reliance is placed by Shri Ananda Ramu on a decision of a Division Bench of the High Court of Allahabad in BAIDYANATH v GENERAL MANAGER, NORTH EASTERN RAILWAY, GORAKPUR AND ANOTHER (1986 LLJ (II) page 41), in which it was held :

The application of the petitioner for correction of his date of birth was rejected without assigning any reason. It is noticeable that on the one hand the petitioner had filed two certificates, on the other hand there appears to be no evidence on record to controvert the same. In the circumstances, normally the application of the petitioner ought to have been allowed especially when the error appears on the face of the record.

On perusing the decision cited supra, we are satisfied that it has no application to the facts of the present case. In that case the petitioner mentioned his age as 24-25 years when he was appointed as peon in the N.E. Railway but no document was produced at that time in support thereof. After medical examination his age was determined as 25 years. Later, when an opportunity was given to the employees by the Railway Board in 1972 to furnish proof regarding the date of birth given by them in their service register, the petitioner produced extracts of School Leaving Transfer Certificate and the qaonsabha register to prove that his correct dob was 2-9-1929 and not 15-4-1919 as recorded in the service register. The High Court of Allahabad in its judgment held that the



application of the petitioner for correction of his dob was rejected without assigning any reason and ignoring the documentary proof furnished to the N.E. Rly. by the petitioner.

5. In the present case the Applicant, even at the initial stage of entry into service, produced the SLC in which the dob was recorded as 4-1-1928 and any rectification of the same subsequent to his entry into service was not binding on the Respondents. Valid reasons for not accepting the altered dob were given by WMMS in his letter dated 11-9-1956. The representation of the Applicant dated 11-9-1973 was based on the same documents, which were considered and rejected rightly in the letter dated 11-9-1956.

6. After a careful consideration of the facts and circumstances of the case, we are satisfied that there is no substance in this application filed by the Applicant.

7. In the result the application is dismissed.

slr
(L.H.A. Rego)
Member(A)
28-7-1986

slr
(Ch. Ramakrishna Rao)
Member (J)
28-7-1986

Whether L.R. copy to be marked? YES/~~NO~~

slr
MEMBER(A)/

slr
MEMBER(J)

True copy.
Ranthy 28/8/86
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE