

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH, BANGALORE

TWENTY FIRST

DATED THIS THE ~~15~~ DAY OF JANUARY, 1987

Present: Hon'ble Shri Ch. Ramakrishna Rao

Member (J)

Hon'ble Shri P. Srinivasan

Member (A)

APPLICATION NO. 1379/86(T)

N.G. Govindaiah,
Guard A-EE615,
Southern Railways,
Bangalore City.

... Applicant

(Shri Ranganath Jois

...

Advocate)

vs.

1. The Divisional Railway Manager,
Southern Railway, Bangalore Division,
Bangalore.

2. The Senior Divisional Personnel
Officer, Southern Railway, Mysore.

3. The Chief Personnel Manager,
Southern Railway, Park Town,
Madras - 3.

... Respondents

(Shri M. Sreerangaiah

...

Advocate)

This application has come up before the court today.

Hon'ble Shri P. Srinivasan, Member (A) made the following:

O R D E R

In this application which originated as a writ petition before the High Court of Karnataka, the applicant challenges an endorsement dated 17.6.82 issued by the Divisional Office, Personnel Branch, Southern Railway at Mysore in which the date of birth of the applicant was noted as 17.2.26. The said endorsement also clarifies that this is the date of birth which was correctly shown in the seniority list published under letters dated 25.4.81 and 5.11.81 (Annexure B to the application).



According to the applicant, his correct date of birth was 17.2.30 and this was the date which was entered in his service record when he entered service in 1948 with the then Mysore Railways.

2. Shri Ranganath Jois, learned counsel for the applicant, vehemently contended that the applicant had been wrongly retired from service in February, 1984 on the basis that his date of birth was 17.2.26 while in fact, it was 17.2.30. When the applicant entered service he had produced evidence to show his correct date of birth and on this basis an entry has been made in his service records recording 17.2.30 as the date of birth. By a typographical error, in a seniority list published on 25.4.81 by the Senior Divisional Personnel Officer, Mysore his date of birth was given as 17.2.26 and it is on the basis of this date that the applicant had been retired and not on the basis of his service records.

3. Shri M.Sreerangaiah appearing on behalf of the respondents, produced an extract of the service register of the applicant prepared in hand in 1959 in which the applicant's date of birth had been recorded as 17.2.26. The copy of the service register had to be prepared because the original had to be sent to the General Manager at Madras for considering the case of the applicant for fresh appointment after he had resigned from service on 28.11.62. The entries in this copy are made in hand and the signatures of the person who copied the entries from the original register and of the two persons who compared the copy with the original indicated that it was a genuine copy. Moreover, the Divisional Superintendent Personnel, Mysore Division had also put his signature authenticating the copy. Shri Sreerangaiah also showed to us two seniority lists - one published with letter dated 29.6.59 issued by the General Manager, Southern Railway, Madras and

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another corrected upto 30.6.49, in both of which the date of birth of the applicant was given as 17.2.26. It was not as if there had been a typographical error in the list brought out on 25.4.81, as the date of birth recorded in that seniority list was the correct one which had been consistently adopted in successive seniority lists and was also recorded in the copy of the service register shown to us. Shri Sreerangaiah further contended that since as early as 30.6.49, the applicant's date of birth had been shown in the seniority list as 17.2.26, it was too late in the day for the applicant to question its correctness now. That was a sufficiently ancient document to establish the correctness of the applicant's date of birth.

4. Shri Ranganath Jois, replying to Shri Sreerangaiah, insisted that the original service register should be produced and certain other documents which he considered valuable should be produced. He had no documents with him to show the correct date of birth as all of them had been handed over to the respondents at different times. Without showing the original service register, the contention of the respondents, he said, should not be accepted.

5. We have considered the matter carefully. We feel that the respondents have discharged the onus cast on them by producing seniority lists brought out in 1949 and 1959 and the handwritten copy of the service book with the signatures of the official who made the copy, those who compared the copy with the original and of the Divisional Superintendent Personnel - all in 1959 - long before the present dispute arose. These are records maintained in the ordinary course of work and they have to be presumed to be correct and unless proved to the contrary. The applicant's counsel has been unable to produce any evidence in this regard. While it is true that the original service register has not been produced before us, sufficient records have been shown to us which have been maintained by the office of the

P. S. *[Signature]*

respondents regularly and which constitute strong collateral evidence which we cannot reject unless strong evidence is produced to prove them to be incorrect. It is also significant that the applicant raised his protest about his date of birth just when he was due to retire and not earlier. We therefore feel that this application deserves to be dismissed.

6. In the result, the application is dismissed with no order as to costs.

Endorsed

MEMBER(J)

AN.

P. J. M. 21/187

MEMBER(A)

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Commercial Complex(BDA),
Indiranagar,
Bangalore - 560 038

Dated : 17.7.87

Review Application No. 80/87 /86)
In Application No. 1379/86(T)

~~XXXXXX~~

_____ /

Applicant

N.G.Govindaiah V/s. The Divl. Railway Manager, B'lore & ors.
To

1. N.G.Govindaiah,
C/o. Sri.H.S.Jois, Advocate,
No.36, 'Vagdevi',
Shankarapuram,
B'lore- 4.
2. Sri.Ranganatha Jois, Advocate,
No.36, 'Vagdevi',
Shankarapuram,
B'lore- 4.

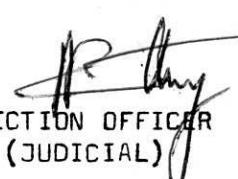
3. The Divl. Manager, Bangalore

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH IN

Review APPLICATION NO. 80/87

Please find enclosed herewith the copy of the Order/~~Interim Order~~
passed by this Tribunal in the above said Application on 13-7-87.

Encl : as above.


SECTION OFFICER
(JUDICIAL)

Balu*

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 13th DAY OF JULY, 1987

Present : Hon'ble Sri Ch.Ramakrishna Rao Member(J)

Hon'ble Sri P.Srinivasan Member(A)

REVIEW APPLICATION NO.80/87

N.G.Govindaiah,
C/o Sri H.S.Jois, Advocate,
No.36, 'Vagdevi', Shankarpuram,
Bangalore - 4. ... Applicant

(Sri S.Ranganath Jois ... Advocate)

Vs.

The Divisional Railway Manager,
Southern Railway, Bangalore Divn.,
Bangalore.

The Senior Divisional Personnel
Officer, Southern Railway,
Mysore.

The Chief Personnel Manager,
Southern Railway, Park Town,
Madras - 3. ... Respondents

This Review Application has come up before the court today.

Hon'ble Sri P.Srinivasan, Member(A) made the following :

D R D E R

By this application, the applicant wants us to review our
order dated 21.1.1987 rendered in A.No.1379/86.

2. In A.No.1379/86, the applicant- a former railway servant- pleaded that his correct date of birth as given by him when he entered service was 17.2.1930, but the Railways had retired him from service on 28.8.1984 on the basis of a wrong date of birth, viz., 17.2.1926. After hearing both sides, we held in our aforesaid order that the respondents, viz., the Railways, had discharged the onus cast on them to prove the correct age of the applicant as recorded in the service book by producing



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a properly attested hand-written copy of the said service book and two seniority lists brought out in 1949 and 1959. We were satisfied that the copy of the service book produced before us was genuine and that the date of birth shown in the seniority list brought out in 1949 and 1959 also supported the contention of the respondents. We observed that entries made in records maintained in the ordinary course of business which include seniority lists brought out from time to time have to be presumed to be correct, unless proved to the contrary. Since the applicant had not been able to produce any evidence to disprove the entries in the copy of the service book produced by the respondents, and in the seniority lists, we dismissed the application.

3. Sri S.Ranganath Jois, learned counsel for the applicant, pointed out what he considered to be errors of fact in our order. The respondents had, at the time, stated that they were producing a copy of the service book of the applicant and not the original because the original service book had been sent to the General Manager of the Southern Railway at Madras. According to Sri Jois, the original register had not, in fact, been sent to Madras and that the statement made in this regard was not correct. We may here mention that when the matter was heard, no allegation was made on behalf of the applicant of the applicant that the statement of the respondents was incorrect, namely that the service book of the applicant had been sent to Madras, and so it was not available in original. Moreover the fact that the original service book had been sent to Madras did not determine whether the applicant's claim was correct. We saw the copy of the service book produced by the respondents, found that it had been duly authenticated by the official who had made the copy and by the Divisional Superintendent (Personnel). It was on this ground that we accepted the contention of the respondents that the correct entry in the service book of the applicant's date of birth was indeed 17.2.1926 and not 17.2.1930, as contended by the applicant. In this background the



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reason why the original service book could not be produced before us was neither here nor there. Once the copy was found to be a genuine one, the reason for not producing the original lost all relevance for deciding the controversy in question. We, therefore, feel that the socalled error pointed out by the counsel for the applicant, and even this is only an allegation which the applicant cannot prove- does not affect our decision in the order dated 21.1.1987.

4. Sri Jois next pointed out that stress was laid by the respondents on the fact that the applicant had raised the issue of his date of birth rather late in his career, i.e., in 1981, and this was probably one reason why the application was rejected. He drew our attention to a decision of the Hyderabad Bench of this Tribunal to show that mere delay on the part of an applicant in raising the question of his correct date of birth should not prevent this Tribunal from considering and allowing the claim. We have gone through the decision of the Hyderabad Bench rendered in S.V.NARASIMHA MURTHY VS. GENERAL MANAGER, SOUTH RAILWAY (ATR 1987(1)CAT page 123). In that case, the Railway authorities refused to consider the applicant's request for change of date of birth which was based on an entry in the School Leaving Certificate. It was in this context that the Tribunal held that the representation of the applicant should have been given proper consideration. The facts in the present case are quite different, because the entry in the service book made when the applicant entered service was 17.2.1926 and no evidence whatsoever was produced before us by the applicant to controvert this entry. The cumulative effect of all the facts found in this case, namely the entry in the copy of the service book, the entries in the two seniority lists published in 1949 and 1959 and the late stage at which the applicant sought to get his date of birth changed, clearly militated against the acceptance of his claim. Moreover the claim of Sri Jois that the applicant came to know that his date of birth was wrongly recorded for the first time in 1981 when a seniority list was brought out cannot be



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accepted because the same date of birth had been recorded in two seniority lists brought out as early as in 1949 and 1959, and the applicant cannot be heard to say that he was not aware of those seniority lists. In view of this also, the claim of the applicant deserved to be dismissed and was rightly dismissed.

5. Sri Jois next submitted that his client had some documents of the Railways themselves to prove the correct age of his client. He showed to us a green card entitled 'Bio-date' which is signed by the applicant himself and in which his date of birth is given as 17.2.1930. According to Sri Jois, this was a card submitted by the applicant in the course of a medical check-up. There is no signature or stamp of any railway official on this card, which is entirely prepared by the applicant. Nothing prevented the applicant from producing the same when the matter was heard earlier. In any case, this card which is entirely prepared by the applicant, cannot advance his case. Sri Jois also pointed out that in one office order, the applicant's name has been stated as Goundiah instead of as 'Govindaiah' and wanted us to infer from this that the railways were not beyond making mistakes whether in spelling a person's name or recording his date of birth. We find hardly any merit in this submission, since we have gone by a duly authenticated entry in the service book.

6. In view of what has been stated above, this review application has no merit and is, therefore, rejected in limine, without notice to the respondents.

