

J U D G M E N T

Delivered by Shri Ch. Ramakrishna Rao, Member (Judl.)

The applicant challenges the validity of the order dated 20.2.1985 issued by the Divisional Engineer (D.E.), (Construction), South Central Railway (SCR), the 1st respondent herein, calling upon him to retire from service w.e.f. 31.3.1985, on the ground that he would attain the age of 58 years on 12.3.1985.

The facts giving rise to the application are briefly as follows:-

The applicant <sup>working</sup> ~~is~~/working as casual labourer (Khalasi) in Class IV Service in S.C.R. since 21.3.1971 when he was initially appointed, and continuously worked as such till 31.3.1985. The applicant, while in service, was called upon to produce a certificate in support of his date of birth (DOB), and for the purpose of obtaining such a certificate, he approached the Tahsildar, Gokak Taluk, Gokak, who, in the certificate, mentioned the name of the person to whom it was granted as "Pundalik s/o Lakkappa Appaiah Pujari" and the DOB as 27.9.1930. In the service register (SR), the applicant's name appears as "Ramappa s/o Lakkappa" and his DOB as 13.3.1927. According to the applicant, he is known by both names - Ramappa and Pundalik, and he filed an affidavit to that effect ~~xxxxxxxxxxxxxx~~ with the SCR.

As the applicant was illiterate, his DOB was wrongly noted as 13.3.1927, with the result that he had to retire from service on 31.3.1985, instead of continuing in service till 30.9.1988.

2. Shri B.G. Sridharan, learned counsel for the applicant, submits that the respondents should have acted on the basis of the certificate issued by the Tahsildar, Gokak Taluk, Gokak, wherein the DOB was recorded as 27.9.1930; that the respondents erred in rejecting the averment of his client in his affidavit that the name "Pundalik" appearing in the said certificate was only an alias for the name "Ramappa" entered in the SR, since his client used to be called by persons known to him by either of the said names; that the applicant, being illiterate, wrongly obtained at first a certificate relating to one Yella s/o Lakkappa Appaiah Pujari, a cousin of his, whose DOB was mentioned therein as 13.3.1927 and the aforesaid DOB crept into the SR of the applicant; that when the correct facts were brought to the notice of the respondents, they were not prepared to alter the DOB and therefore the order directing him to retire from service w.e.f. 31.3.1985 is not valid.

3. Shri M.Sreerangaiah, learned counsel for the respondents, submits that in the Casual Labour Service Card issued at the time of the initial appointment of the applicant, the DOB of the applicant was shown as 13.3.1927; that later, in his SR, the applicant signed as "Ramappa Lakkappa" and he mentioned his father's name as "Lakkappa"

and his DOB as 13.3.1927, and the left thumb impression and signature of the applicant were attested by the Assistant Engineer (Construction), ~~2x2x2x~~ SCR, that the theory put forward by him in the context of his superannuation in 1985 that he was known by two names - Ramappa and Pundalik - and the date of birth given by him initially related to one Yella, his cousin, was clearly an after-thought; that the respondents were justified in proceeding on the basis that the correct DOB of the applicant was 13.3.1927 and not 27.9.1930, and in the circumstances, the order of the DE calling upon the applicant to retire from service w.e.f. 31.3.1985 is not illegal.


4. After considering the pros and cons, we are satisfied that the theory put forward by the applicant that he was known by two names has not been established by the applicant by producing any evidence in support thereof, except an affidavit sworn to by him, which is a self-serving document. The minimum proof expected of the applicant, in the circumstances, is oral or written statements from his kith and kin, or any responsible person of the locality where he was born or living in later years, that he was known by the two names referred to above. In the absence of any such evidence, we find it difficult to accept the bare ipse dixit of the applicant as set out in his affidavit.

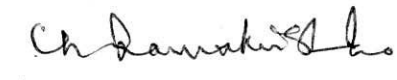
5. Reliance is placed by Shri Sridharan on the medical fitness certificate granted by the Medical Officer (MO) on 22.1.1980, in which the age of the applicant was mentioned as 50 years. This, in our view,

is not conclusive proof of the age of the applicant since the said certificate was given by the MO in a different context and the age therein was incidentally mentioned. In other words, the certificate was not meant for determining the age of the applicant, and as such, it has no probative value.


6. We, therefore, find no infirmity in the impugned order so as to call for interference.

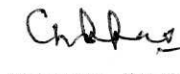
7. In the result, the application is dismissed.

  
(L.H.A. REGO)  
Member (AM)  
28.7.1986.

  
(CH. RAMAKRISHNA RAO)  
Member (JM)  
28.7.1986.

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

  
MEMBER (AM)


  
MEMBER (JM)

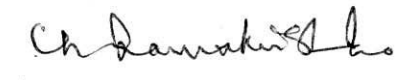
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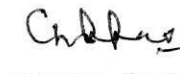
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