

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, *Lucknow* BENCH

OA/TA/RA/CP/MA/PT 330/90 of 20.....

..... *Shri Kailash Pankey*..... Applicant(S)

Versus

..... *U.O.T. Govt.*..... Respondent(S)

INDEX SHEET

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE
1	- Checklist	A1 to A2.
2	- Index sheet	A3
3	- order sheets	A4 to A8.
4	- Judgement/Order/aff. 22-1-93	A9 to A11
5	- copy of Petition/Amendment	A12 to A26.
6	- Power	A27.
7	- Annexure	A28 to A33
8	- M.R. No 607/92	A34 to A45
9	- Substitution	A46 to A53
10	- Submit Application by	A54 to A60.
11	- Registration Affidavit	A61 to A75

Certified that the file is complete in all respects.

File B/C sealed and destroyed.

Signature of S.O.

Signature of Deal. Hand

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Deputy Registrar(J)

Registration No. 330 of 1989 9c (2)

28/9

APPLICANT(S) Shri Kailash Pandey

RESPONDENT(S) V.O.I. of others

	<u>Particulars to be examined</u>	<u>Endorsement as to result of examination</u>
1.	Is the appeal competent ?	
2.	a) Is the application in the prescribed form ?	No
	b) Is the application in paper book form ?	yes
	c) Have six complete sets of the application been filed ?	yes
3.	a) Is the appeal in time ?	yes
	b) If not, by how many days it is beyond time ?	yes
	c) Has sufficient cause for not making the application in time, been filed ?	yes
4.	Has the document of authorisation Vakalatnama been filed ?	yes
5.	Is the application accompanied by B.O./Postal Order for Rs.50/-	yes Postal Order 50/-
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 ?	yes
	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 ?	No

Particulars to be ExaminedEndorsement as to result of examination

1. Are the application/duplicate copy/spare copies signed ? Two sets
2. Are extra copies of the application with Annexures filed ?
 - a) Identical with the Original ? yes
 - b) Defective ? yes
 - c) Wanting in Annexures
3. Are the file size envelopes bearing full addresses of the respondents been filed ? N.A.
4. Are the given address the registered address ? yes
5. Do the names of the parties stated in the copies tally with those indicated in the application ? yes
6. Are the translations certified to be true or supported by an Affidavit affirming that they are true ? N.A.
7. Are the facts of the case mentioned in item no. 6 of the application ?
 - a) Concise ? yes
 - b) Under distinct heads ? yes
 - c) Numbered consecutively ? yes
 - d) Typed in double space on one side of the paper ? yes
8. Have the particulars for interim order prayed for indicated with reasons ? yes
9. Whether all the remedies have been exhausted. yes

dineshDefects

1. Annexure is not attested by R
2/6 Shri L. P. Shukla, C/A. S. No. 30/9
2. This application is in old Proforma.

Applicant to
remove above
reorder defects
noted
first - 31/20-5-9

Central Administrative Tribunal

Lucknow Bench

INDEX SHEET

Cause Title of 1993

Name of the Parties ----- Applicant
versus
----- Respondents.

Part A E.C.

Sl. No.	Description of documents	Page
---------	--------------------------	------

28.09.1990.

Hon'ble Mr. Justice K. Nath, V.C.

Hon'ble Mr. K. Obayya, A.M.

Heard the applicant's Counsel
Admit.

Issue notice to respondents to file reply within four weeks to which the applicant may file rejoinder within two weeks thereafter.

In the matter of interim relief issue notice and list for orders on 22.10.1990. Till then the applicant shall not be retired from service on the basis of list, Annexure-A-1. The case may be listed on 22.10.1990 because no Bench is available here till then in the meantime.

Sd/-
A.M.

Sd/-
v.c.

Ms. /

Notice Issued
8-10-90

No sitting ADL to ~~11:30~~ 11:30

GR

Notices were issued
on Oct. 90.

Neither reply nor
proposal.

any ~~comes~~ ^{must be} been

23.11.90 case not reach case
is adjourned to 22.2.91
for order.

C. F. J.

No setting Ali to 24.5₉₁

No Sillings. Dafydd B. 9. 9. 91

3-9-91 How Mr. D. K. Agarwal, I.M.
from Mr. K. S. Jayaram, I.M.

Mr. L. P. Shukla, the applicant,
Mrs. Arjuna Bhargava has filed power
on behalf of opposite party parties, on 22-10-90.
The Stay order was granted in favour
of the applicant on 20-9-1990. Thus, it
is clear that the Parliamentary Administration
is not affected by the Stay order granted
by Mr. Justice Courts. if any & filed

Cintalap

OA 330/902

29.8.92

Case adjourned adjourned
20.8.92

more

17-7-92

from Mr Justice V.C.S. V.C.
from Mr Kobayashi, A.M.

~~OR~~
M.P. No 607
with R.A.
filed on 15/7/92
S.F.O on 17/7/92

San R.B. Srivastava, Present.
List on 3.8.92.

B
16/7/92

Stay order shall automatically
expire on that date if
after hearing counsel
for the parties, it is not
extended, when it will
be disposed of finally.

A.M.

V.C.

2

O.R.

3.8.92 Case adjourned adjourned

Reply on behalf of
respondent has
been filed. No RA
filed.

S.F.O.

2

31/7/92

08.9.92 Hon. Mr. S.N. Prasad - T.M.

Sri Sanjay Srivastava,
brief holder of Sri K.P. Shukla is
present and seeks adjournment.

List this case for hearing

on 21.9.92.

T.M.

cmn

AS

X

O.A. No. 330 of 90

Dated: 25.9.92

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

Case called out. None responds on behalf of either of the parties. A ~~resolution~~ letter has been received from the Secretary CAT, Bar association Sri V.K. Chaudhary to the effect that no adverse order be passed due to absence of any of the parties as there is traffic Jam due to rally of B.J.P. today i.e. 25.9.92 List this case for hearing on admission/final disposal on 29.9.92.

2

J.M.

(rka)

29.9.92

Hon'ble Mr. S.N. Prasad - J.M.

Case called out several times of interval. Sri Arjun Bhargava learned counsel for the respondent is present. None responds on behalf of the applicant.

List this case for hearing on 30.9.92 and in case the applicant does not turn up on that date, the application may be dismissed for default.

2

J.M.

on

Dated: 15.10.92

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

Shri L.P. Shukla learned counsel for the applicant and Shri Arjun Bhargava learned counsel for the respondents are present. An application has been moved by the counsel for the applicant for serving reply as specified in para 5 thereof. The learned counsel for the respondents seeks time to file reply documents as referred

Contd.. 2/-

O.A. No. 330 of 90

Dated: 5.11.92.

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

C.R.
case is s.f.H.

17/11/92

The learned counsel for the parties are present. The counsel for the respondents seeks adjournment. This is noteworthy that this is an old case and requires speedy disposal. List this case for hearing/final disposal on 19.11.1992.

J.M.

20
23/11/92 (rka)

19/11/92

Hon'ble Mr. S.N. Prasad - J.M.

Sri Arjun Bhargava, learned Counsel for the respondent is present and Sri Om Prakash Muni Tripathi, brief holder of Sri L.P. Shukla is also present and states that due to not feeling well Sri L.P. Shukla has sought adjournment.

List this case for hearing
on 24.11.92.

J.M.

24-11-92 Hon'ble Mr. S.N. Prasad, J.M.

Sri L.P. Shukla, learned counsel for applicant and Sri Arjun Bhargava, learned counsel for respondent are present. A perusal of record shows that the representation of the applicant A-3 dated 8-8-90 which was submitted to the General Manager R.N. Railway, does not appear to have been decided, as there is no specific mention of this fact in the counter reply filed by the respondents. Thus, this being so,

P.T.O.

08/12/92Hon'ble Mr. S.N. Prasad, J.M.

Counsel for the respondents Sri A. Bhargawa is present. Counsel for the applicant is not present due to Curfew.

List this case on 22.12.92 for hearing and disposal.

J.M.

(m.m)

22.12.92 - No specified to 1.1.93 -

Date
1.1.93

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

case called out. Sri L.P. Shukla, learned counsel for the applicant is not present. None responds on behalf of the respondents even during the course of revision of the list. The learned counsel for the applicant has filed today one application dated 3.12.92 which contains the prayer to the effect that the letter dated 9.10.90 issued by G.M. (P) N.E Railway Baranagar Hause New Delhi, which is addressed to the P.R.M. N.E Railway Lucknow be brought on record. A perusal of this application shows that the copy of this application has been received by the learned counsel on 3.12.92 as would be effect appearing on the reverse of first page of this application dated 2.12.92. List this case for hearing and disposal on 1.1.93.

J.M.

O.P.
Submitted
for hearing
(3/11/93)

P.C

A

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

Original Application No. 330/90

Kailash Pandey

Applicant

versus

Union of India & others

Respondents.

Shri O.P. Mani Tripathi
Shri Arjun Bhargava

Counsel for Applicant.
Counsel for Respondents.

Counsel:

Hon. Mr. Justice U.C. Srivastava, V.C.

The applicant who started service in Northern Railway as Running Room Cook, ^{was} promoted as ticket collector, ultimately, after intervening promotions, ^{He} has approached this Tribunal with the prayer that the order contained in Annexures A-1 and A-4 retiring the applicant from service in the after noon of 30.9.1990 be quashed and the respondents be directed to correct his date of birth as mentioned in the School Certificate contained in Annexures No. A-2 and the applicant be retired from service on the basis of his correct date of birth i.e. on 6.9.1934.

On 28.9.90 interim order was granted by the Tribunal with the result that the applicant has continued in service, whereafter he retired from service. According to the applicant, ^{before} he entered the service, he passed Class IV in the year 1944 from Primary Pathshala, ^{U.P.} ~~Sultanpur~~, District ^A Sultanpur and his date of birth in the school was recorded as 6.9.1934 and on the basis of the certificat

he was given promotion and he had declared his correct date of birth and also submitted school leaving certificate. It was only when subsequently that his date of birth has been wrongly recorded and he made representation. On his representation, Welfare Inspector was deputed and the Welfare Inspector reported that the date of birth as recorded in the certificate birth/was not correct.

2. The respondents have stated that the applicant, at the time of entry in service wrote his date of birth as 6.9.1932 both in words and in figures in handwriting. Doubt has been expressed on the Welfare Inspector's Report. Whatever may be the position. It maybe that sometime by mistake the applicant may have given the ~~xxxxxx~~ date of birth. Later on it was detected that the date of birth was incorrectly recorded. As a matter of fact the date of birth of the year 1934 was correct ^{apparently} ~~if he in fact studied in that school~~ date of birth. Every one is not supposed to remember his correct date of birth. There is evidence of ^{appears to be} ~~in his favour~~ unimpeachable character. If the respondents have some doubt, the respondents can depute any other person and the date of birth verified from the scholar's register will be the correct date of birth and he will be deemed to have retired in the year 1992 and will be given consequential benefits and let it be done within three months, meaning thereby that the respondents will complete enquiry within this period and ^{it is} ~~it is~~ desirable the applicant may also be associated with the enquiry and in case it is found that the applicant's correct date of birth was 1934, that will be done as indicated above, in case fresh enquiry has not been done and he

Arv

-3-

has also not reported the very same thing.

3. The application is disposed of as above. No order as to costs.

Shakeel/-

Lucknow: Dated 22.1.93.

li
Vice Chairman.

12/11
12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW.

Kailash Pandey ... **Applicant.**

Versus

Union of India & another ... **Respondents.**

FORM-I
(See rule 4)

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNALS ACT, 1985.

For use in Tribunals Office:

Date of filing _____

or

Date of receipt by post _____

Registration No. _____

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

Central Administrative Tribunal
Circuit Bench, Lucknow

Date of Filing 28/9/90

Date of Receipt by Post.....

O.A. No. 330 of 1990 (L).

Deputy Registrar(J)

Kailash Pandey

Applicant. 28/9

Versus

Union of India & another Respondents.

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNALS ACT, 1985.

DETAILS OF APPLICATION:

1. Particulars of the applicant:

(i) Name of the applicant.)

(ii) Name of father:)

(iii) Age of the applicant:)

(iv) Particulars of office
where employed.)

(v) Office address:)

Kailash Pandey, aged
56 years, son of Late
Ram Iqbal Pandey,
Senior Ticket Collector,
under Station Superin-
tendent, Northern
Railway, Varanasi.

(vi) Address for service of
notice: :)

Kailash Pandey,
son of Late Ram Iqbal -
Pandey, resident of
Village Patar Khas,
P.O. Bhilera,
Distt. Sultanpur(UP).

filed today

28/9/90

9
OCT 1990
CHENNAI

B.M
M

(2)

2. Particulars of the respondents:

- (i) Name of the respondents:) 1. Union of India
through the General -
Manager, Northern -
Railway, Baroda House,
NEW DELHI.
- (ii) Designation & particulars)
of the office:)
- (iii) Office address :) 2. The Divisional Railway
Manager, Northern -
Railway, Hazratganj,
LUCKNOW.
- (iv). Address for service of)
notice:)

3. Particulars of the order against
which application is made:

- (i) Order No.) 816-E/6/Retd/Pt.II
dated 12.9.1990 issued by D.P.O
of respondent no. 2. (Annexure A-1)
- (ii) Date:) and
No. 816-E/6-8/Rtd/Pt.II
dated 13.9.1990 issued by
respondent no. 2 in so far
as it speaks about the
retirement of the applicant
in the afternoon of
30.9.1990. (Annexure No.A-4)
- (iii) passed by)

Subject in brief:

Against retirement from service on the basis
of incorrect date of birth and without first
disposing of the applicant's representation
for alteration in date of birth.

4. Jurisdiction of the Tribunal:

The applicant declares that the subject

*2
MCN/2/1995*

ADM
A
B

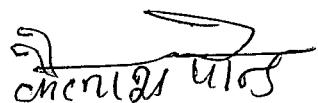
matter of the order against which he wants redressal is within the jurisdiction of this Hon'ble Tribunal.

5. Limitation:

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

6. Facts of the case:

- (a). That the applicant started his primary education from the year 1940 in the Basic Primary Pathshala, Harpur, District Sultanpur and in the year 1944, he passed class IV from that institution.
- (b). That the date of birth of the applicant, as got recorded by his father in the school records, is 6.9.1934, which is still available in the Scholar Register of the aforesaid institution.
- (c). That in the year 1954, the applicant, after passing his class IV in the year 1944 from the aforesaid institution, applied to the Divisional Superintendent, Northern Railway, Lucknow (now designated as Divisional Railway Manager) for his appointment in class IV service with the aforesaid



CHANDRILAL

date of birth.

(d). That in pursuance of the aforesaid application for appointment, the applicant was selected for the post of Running Room Cook (Class IV Service) and was sent for prescribed medical examination by the Railway Doctor at Lucknow with a Memo indicating therein the age of the applicant as about 20 years, which was on the basis of the declaration given in the aforesaid application for appointment.

(e). That after passing the medical examination, the applicant was appointed as Running Room Cook on and with effect from 3.7.1954 and posted under the Station Master, Pratapgarh.

(f). That after some times of his appointment, the applicant, on being called, attended the office of the Divisional Superintendent, Northern Railway at Lucknow where he was made to sign certain papers alleged to be in connection with his appointment as Running Room Cook.

(g). That even at the aforesaid stage, the applicant, on being asked, declared his date of birth being 6.9.1934 for which he was required to submit confirmatory certificate from the institution where he had last studied.

(h). That in support of his date of birth

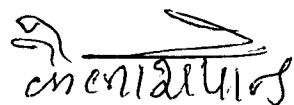
Chandigarh

being 6.9.1934 and educational qualification, the applicant, within a very short time, submitted School Leaving Certificate in original of the aforesaid institution in the office of the respondent no. 2.

(i). That at the time when the applicant entered the railway service, it was a must for new appointees to submit confirmatory certificate such as High School Certificate or birth certificate or School Leaving Certificate or Baptismal Certificate in original and in the event of non-availability of the said certificates, they were required to submit their affidavit in support of their date of birth otherwise they were dis-qualified for appointment in the railway service.

(j). That since the applicant had submitted confirmatory certificate namely School Leaving Certificate of the aforesaid institution of his date of birth, he was allowed to continue in the employment of the respondents.

(k). That after submitting the aforesaid school certificate in the office of the Divisional Superintendent, Northern Railway, Lucknow, the applicant remained under a bonafide belief that his correct date of birth, as recorded in the school certificate, was recorded in the official records.


Chandauli

(l). That after some times, the applicant was promoted as Shed Pointer and Marks-man under the respondents.

(m). That in the year 1983, the applicant, on the basis of his aforesaid educational qualification, was promoted in class III service as Ticket Collector grade Rs. 260-400.

(n). That in the month of November, 1989, the applicant was further promoted as Senior Ticket Collector grade Rs. 330-560 (revised scale 1200-2040) under the respondents.

(o). That the respondents, at no stage, issued the seniority list of the applicant indicating his date of birth and other particulars; and as such the applicant had no occasion to know that his date of birth was wrongly recorded in his Service Record.

(p). That during the period 1983 to 1990, the respondent no. 2 issued several seniority lists of Ticket Collectors and Senior Ticket Collectors but in none of the said lists, the name of the applicant was placed. Against this, the applicant made representations but nothing has yet been communicated to him.

(q). That abruptly on ~~1-1-90~~ ¹⁻¹⁻⁹⁰ ~~1989~~ ^{8.P.O of} ~~1989~~ ⁵⁵, the respondent no. 2 issued an order bearing No. 816E-6/8/Retirement/1989 ^{3/4} ~~Retirement~~ ^{3/4} circulating the name of the applicant ^{3/4}.

A-9
A
A
(7)

at serial no. 15 for being retired in the afternoon of 30.9.1990 on the basis of incorrect date of birth that is 6.9.1932. A true copy of the aforesaid order dated ¹⁻¹⁻⁹⁰ ~~12-1-90~~ is being filed herewith as ANNEXURE NO. A-1 to this application.

Annexure A-1.

(r). That since the applicant's posting being at Varanasi, the aforesaid order of retirement came to his notice very late, but on having come to know about the wrong date of birth as mentioned in the said order, the applicant approached to the aforesaid institution wherein he had studied prior to his appointment and other educational authorities for issue of a second T.C./ School Leaving Certificate which he could be able to get late in the month of July, 1990. A true photo stat copy of the said school certificate dated ¹⁸⁻⁷⁻⁹⁰ ~~July~~ is being filed herewith as ANNEXURE NO. A-2 to this application.

Annexure A-2.

(s) That thereafter, the applicant, by means of a representation dated 8-8-1990 annexing therewith the aforesaid school certificate, requested the respondent no. 2 to correct his date of birth by recording the same as 6.9.1934 instead of 6.9.32 and not to retire him in the after-noon of 30.9.90. A true photo stat copy of the said representation is being filed herewith as ANNEXURE NO. A-3 to this application.

Annexure A-3.

(t). That since the alteration in date of

2/1/2011

11/12
A/V

birth is permitted under the departmental rules in the circumstances indicated below, the respondent no. 2, in order to verify the facts stated by the applicant and the genuineness of the ~~any~~ school certificate, deputed his Welfare Inspector to verify the same from the school records :-

- i). Where it is ascertained that the date of birth had been falsely stated by the employee to obtain an advantage otherwise inadmissible; or
 - ii). Where it is proved that genuine clerical error had occurred in recording the date of birth; or
 - iii). Where a satisfactory explanation 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 attempt made to have the records amended.
- (u). That the aforesaid Welfare Inspector deputed by the respondent no. 2 verified the facts from the school records which are still available in original and from other authorities and found the same as correct. Accordingly; he submitted his report to the respondent no. 2.
- (v). That thereafter, the respondent no. 2,

Om Prakash

under his Letter No. 816-E/6-8/Rtd./Pt-II dated 13.9.1990, referred the case of the applicant to the General Manager (P), Northern Railway, Baroda House, New Delhi alongwith all relevant records and with recommendation to alter the date of birth of the applicant from 6.9.1932 to 6.9.1934. A true photo stat copy of the said letter dated 13.9.1990 is being filed herewith as ANNEXURE NO. A-4 to this application.

Annexure A-4.

(w). That in the aforesaid letter dated 13.9.1990 (Annexure No. A-4), it is made clear that the applicant would be retired from service in the after-noon of 30.9.1990 if no decision is received by the respondent no. 2 by that date.

(y). That on 26.9.1990, the applicant, on his personal contact to the Assistant Personnel Officer, Northern Railway, Lucknow, was informed that since the General Manager (P), Northern Railway, New Delhi has communicated no decision to the respondent no. 2 on his representation and reference made, the applicant would be retired from service in the after-noon of 30.9.1990 on the basis of disputed date of birth. The applicant was further told that since the offices shall remain closed upto 30.9.1990, there is no likelihood of the orders being issued by the said authority.

(z). That in the circumstances mentioned above, the applicant, despite clear evidence of

Enclosed

his date of birth being incorrectly recorded in the official records as evident from Annexure No. A-4, will be retired from service in the after-noon of 30.9.1990 on the basis of wrong date of birth due to administrative fault and delay.

(aa). That there is no evidence at all to defeat the claim of the applicant, thus the ^{impugned} ~~order of~~ ^{his} retirement in the after-noon of 30.9.90 is arbitrary and illegal.

(bb). That many persons similarly situated had already been granted such relief in alteration of their date of birth on the basis of school certificate, but the applicant is being discriminated which is violative of Articles 14 and 16 of the Constitution of India.

(cc). That retirement of the applicant in the after-noon of 30.9.1990 on the basis of wrong date of birth will amount to punishment and the applicant and the members of his family will suffer irreparable losses because of no means of livelihood.

(dd). That because of premature retirement of the applicant on the basis of wrong date of birth, the pensionary benefits of the applicant will be considerably reduced to a greater extent.

CHANDRILAL

(ee). That the applicant, as per his correct date of birth being 6.9.1934 as also found correct by the respondent no.2, is due to retire from service in the after-noon of 30.9.1992.

(ff). That in the facts and circumstances of the case and there being clear evidence available on the record supporting the claim of the applicant, the order of his retirement in the after-noon of 30.9.1990 is illegal and arbitrary in law.

7. Details of remedies exhausted:

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

8. Matter not previously filed or pending with any other court.

The applicant further declares that he had ^{not} previously filed any application, writ petition or suit regarding the matter in respect of which the application has been made, before any court of law or any other authority or any other bench of the Tribunal and not any such application, writ petition or suit is pending before any of them.

9. Relief sought:

Memorandum

In view of the facts mentioned in para 6

above, the applicant prays for the following reliefs :-

- (a) This Hon'ble Tribunal be pleased to quash the order of applicant's retirement in the after-noon of 30.9.1990 contained in Annexure Nos. A-1 and A-4 directing the respondents to correct his date of birth as mentioned in the School Certificate contained in Annexure No. A-2 and the applicant be retired from service on the basis of his correct date of birth that is 6.9.1934.
- (b) Cost of this application be awarded to the applicant.

G r o u n d s.

- (a). Because the applicant had never declared his date of birth being 6.9.1934.
- (b). Because the alleged date of birth of the applicant that is 6.9.1932 as recorded in his Service Record is without any basis.
- (c). Because in view of the facts contained in Annexure A-4, the retirement of the applicant in the after-noon of 30.9.1990 admittedly on the basis of incorrect date of birth is illegal and arbitrary in law.

mentioning

(d). Because the order of applicant's retirement from service in the afternoon of 30.9.1990 on the basis of wrong date of birth is discriminatory and violative of Articles 14 and 16 of the Constitution of India.

(e). Because there is no evidence at all available with the respondents to defeat the claim of the applicant.

19. Interim order, if any prayed for:

Pending decision of this case, the respondents be restrained from retiring the applicant in the afternoon of 30.9.1990 on the basis of wrong date of birth that is 6.9.1932.

11. Particulars of Postal Order:

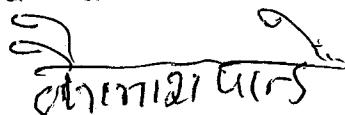
- 1). Number of the postal order. 002486892
- 2). Name of the issuing post office. 9/7190 H.C. Branch
- 3). Date of issue 7/10/90
- 4). Post office at which payable. Allahabad

12. List of enclosurers:

A duplicate list in duplicate of the documents relied upon is enclosed herewith.

Verification:

I, Kailash Pandey, aged about 56 years, son of Late Ram Iqbal Pandey, resident of Village Patar Khas, P.O. Bhilera, District Sultanpur presently working as Senior Ticket Collector under Station Supdt., Northern Railway, Varanasi, do hereby verify that the contents of paras 1 to 12 of this application are correct to my personal knowledge and that I have not suppressed any material fact.


KAILASH PANDAY

Lucknow:
Dated: 28-9-1990.

Applicant:

To,

The Registrar,
Central Administrative Tribunal,
Circuit Bench, Lucknow.



बंदालत श्रीमान

(वादी) अपीलान्ट

Applicant

On the Central Admnistrative Tribunal

Circuit Bench Lucknow

महोदय

Kailash Pandey वकालतनामा

प्रतिवादी [रेस्पान्डेन्ट]

टिकट

(वादीअपीलान्ट)



Kailash Pandey

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

Union of India & another

नं० मुद्रदमा

सन्

पेशी को ता०

१९ ३०

ऊपर लिखे मुद्रदमा में अपनी ओर से श्री

Lakshmi pat Shukla

C-700 Mahanagar, Lucknow

बकील

महोदय

एडवोकेट

को अपमा वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुद्रदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोच्चर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबालदावा तथा अपील निगरानी हमारी ओर से हमारे या अपने इस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीदासनी) लो दाखिल किया हुआ रुपया अपने या हमारे इस्ताक्षर युक्त (दस्तखती) रसीद लेवे या पंच नियुक्त करें वकील महोदय द्वारा की गई वह सब कार्यवाही हमस्ती सर्वदा स्वीकार हैं और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या अपने किसी पैरोकार को भेजता रहूँगा अगर मुद्रदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला ही जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसीलिये यह वकालत नामा लिख दिया प्रमाण रहे और समय पर काम आवे।

मिला (पान्डे)

इस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

२७

महीना

९

सन् १९७०

ई०

स्वीकृत

(All Shrimjat Shukla)

A-2
X/2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW.

O.A. No. of 1990 (L).

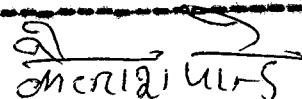
Kailash Pandey ... Applicant.

Versus

Union of India & another ... Respondents.

LIST OF DOCUMENTS RELIED UPON:

	<u>PAGE NO.</u>
1. <u>Annexure A-1.</u> Photo stat copy of Order No. 816E-6/8/ Rtd./Pt.II dt. 12-12-1989. dt. 1-1-90	15
2. <u>Annexure No. A-2.</u> Photo stat copy of School Leaving Certificate dt. 18-7-90 issued by Basic Primary Pathshala, Harpur, Distt. Sultanpur.	16
3. <u>Annexure No. A-3.</u> Photo stat copy of representation dated 8-8-90	17 to 18
4. <u>Annexure No. A-4.</u> Photo stat copy of Letter No. 816-E/ 6-8/Rtd./Pt.II dt. 13.9.1990 issued by respondent no. 2 to the General Manager(P), Northern Railway, Baroda House, New Delhi.	19


KAILASH PANDAY

Signature of the applicant.

No. 816-E/6/8/Retirement/90

Divisional Office,
Lucknow.

Dated: 25/1/90

Retirement List of Ticket Checking Staff of LKO Division.

Sl.	Name.	Design./Stn	D.O.B.	D.O.R.	P.F. No.
S/Chri					
1.	Jamuna Prasad.	CIT/LKO	1.2.32	31.1.90	521883
2.	S.N.Srivastava.	-do-	1.2.32	-do-	516519
3.	R.N.Singh.	JIT/LKO	4.1.32	-do-	516985
4.	Abdul Aziz.	JIT/BSB	6.1.32	-do-	521306
5.	Ghanshyam Dass.	HTTE/BSB	1.2.32	-do-	-
6.	K.L.Tandan.	CIT/LKO	1.4.32	31.3.90	511888
7.	P.N.Sahai.	JIT/LKO	10.4.32	30.4.90	516537
8.	R.B.Srivastava.	-do-	10.4.32	-do-	516569
9.	S.N.Saxena.	HTTE/LKO	5.5.32	31.5.90	-
10.	R.S.Dixit.	JIT/LKO	19.6.32	30.6.90	-
11.	H.S.Subramhanium.	JIT/BSB	31.7.32	31.7.90	516591
12.	K.L.Bhatia.	JIT/LKO	10.7.32	31.7.90	-
13.	P.B.Misra.	HTTE/LKO	15.9.32	30.9.90	516532
14.	R.S.Ahmedwalia.	CIT/BSB	1.10.32	30.10.90	516568
15.	Kailash Pandey.	Sr. TC/ SL	6.9.32	30.9.90	512363
16.	Mewa Lal.	COC/LKO	20,10.32	31.10.90	-
17.	V.P.Ghosh.	HTTE/LKO	25.10.32	31.10.90	-
18.	R.K.Mukherjee.	CIT	25.11.32	30.11.90	516588
19.	A.K.Kumar.	CIT	1.1.33	31.12.90	521896
20.	D.N.Chaubey.	CIT	1.1.33	31.12.90	516507
21.	M.L.Gupta.	-do-	1.1.33	31.12.90	516966
22.	R.S.Lal Srivastava.	JIT/td>	1.1.33	31.12.90	516550

For Civil Personnel Officer,
My, Lucknow.

Copy to:-

SS/LKO, BSB, FD.

DCIT/ LKO.

CIT/LKO, SL, FD.

Supdt./ P. Smti & Commr./ LKO & Settlement.

Sr. DAO/Lucknow, kindly verify it. P. N.

"Chandu" 15/1/90

स्टॉफिकेट क्रम संख्या

विभाग पात्र

(3485)

EXCISE NO.

A-2

16

स्थानान्वेतरण प्रमाण-प्राप्ति

स्कूल तथा रजिस्टराकृत संख्या ५०८०८०८०८०

प्रतिहस्तान्वेतरण

मध्य जिला

सूलगांव पुर

नाम विद्यार्थी क्रमांक पाठ्य (अ) नाम जाति विद्यालय में सेवा विवरण

जन्म तिथि छात्र सितम्बर सन् विद्यालय क्रमांक पाठ्य

स्कूल छोड़ते समय आयु (स) नाम उच्च परीक्षा जो उत्तीर्ण

वर्ष मास

उत्तीर्ण हो दिया ३९५४४४

पिता का नाम पाठ्य अंक वाले

अयवा कक्षा जिससे नाम कठा

जाति [हिन्दू हो, अयवा वर्मा] वाट्टा

(द) विद्यार्थी की भाषा [हिन्दी या अंग्रेजी]

निवास स्थान पुतार रखाल

अन्य आवश्यक सूचना

रहसील छाड़ी पुर जिला सूलगांव

(१) अर्थात् वह निःशुल्क या

उत्तर प्रदेश में रहने की अवधि जान्म से

(२) कक्षा निर्धारित तिथि से

प्रथम स्कूल प्रवेश का दिनांक प्राप्ति दिनांक स्कूल सुलने की दिन संख्या

प्रवेश रजिस्टर की क्रम संख्या २७२

(ब) विद्यार्थी की उपस्थिति

स्कूल प्रवेश का अन्तिम दिनांक

(स) बोमारी की दिन संख्या

स्कूल की अन्तिम क्रम संख्या X

(द) पिता का व्यवसाय

नाम छोड़ने का दिनांक २९.१०.४५

दिनांक २९.१०.४५

दिनांक १८.१०.४५ मास

सन १९४० वैद प्राप्ति दिनांक

हस्ताक्षर प्रधानाध्यापक

प्रधान दूष्प्रापण

नोट :- १-उपर्युक्त उन्नेख शुद्ध और सुन्दर हो तथा प्रधानाध्यापक का द्वारा लिखा हो।

२-स्टॉफिकेट का लेख प्रवेश रजिस्टर के लिये संपर्क हो रहा।

३-आचरण संक्षेप में सिस्तमा चाहिए।

४-स्कूल छोड़ते समय की आयु की मापदण्ड नियमक तक वे ग्रामीण स्टॉफिकेट देने की

तिथि तक नहीं।

मार्च १९४१ पाठ्य

The Divisional Railway Manager,
Northern Railway,
LUCKNOW.

ANNE XUPE NO

A-3

Reg :- Request for correct entry of year of Birth in service Record for the purpose of retirement on superannuation. While Date & month is correct on Records.

Respected Sir,

Most respectfully I beg to submit as under:

1. That I was appointed as Guard R.R.Cook in July, 1954 under S.M./PBH on LKO Division.
 2. That in 1983 I was selected as T.C. in Grade 260 - 400 R.S/mw 950-1500(RPS) and posted at BSB under SS/BSB where I am still working.
 3. That I am surprised to know that I am going to be retired on age limits on 30.9.90 when the fact stands that my date of birth is 1.9.34 according to my primary school Certificate, and I am due retirement on 30.9.92 and not on 30.9.90.
 4. That I feel that there is some clerical office mistake in my retirement date somewhere which may kindly be checked and Tallied with my Primary School certificate in respect of date of birth which I am attaching herewith for your ready reference.
 5. That I have obtained a copy of

Contents

11211

AS
10
6
3/2

duplicate school certificate of Primary School where
I passed Class 4th. bearing date of birth ~~1980~~ as
old record of the school was not easily traceable. It
took ~~long~~ time to obtain the copy of the Certificate
to substantiate my Claim I may request that the record
should be corrected accordingly and I should be correctly
retired on 30-09-92 and not on 30-09-1990. Thanking
you for your best life and happiness.

Yours faithfully,

Ch 011214103

(KAILASH PANDEY)

Ticket Collector

Under Supdt. Northern Railway
VARANASI.

Date:

forwarded for
correction of the
error in the record.

Ballal
30th August 1990
S. T. A. Officer
STATION SUPDT.
VARANASI

2
011214103

Northern Railway

No:-816-E/6-8/Rtd/Pt.II

Divisional Office,
Lucknow, Dt. 13.9.90

General Manager(P),
Northern Railway,
Baroda House,
New Delhi.

Sub:- Alteration in Date of Birth of Sri Kailash
Pandey, Sr. T.C., Lucknow Divisional scale
B1200-2040(RPS).
.....

Sri Kailash Pandey was initially appointed in class IVth category as R.R. Secy on 3.7.1954 under SR/PEH. While recording the date of birth of Sri Pandey in his service record it appears to have erroneously recorded as 6.9.32 instead of 6.9.34.

Sri Kailash Pandey has been representing for alteration in his date of birth as per certificate issued by the Principal of Indic Primary Pathshala, Hazipur, distt. Sultanpur. When he came to know the date of birth recorded in Service Record through Retirement List of TCO issued by DRD/RR/LKO. The matter has been investigated by deputing SMU who visited the Primary Pathshala and investigated the school records which are still available and recorded in school register is 6.9.1934 and the certificate issued by the Principal duly countersigned by the Inspector of School is correct (photostat copy enclosed).

Sri Kailash Pandey was initially appointed in class IVth category and has been promoted to class III as Ticket Collector only in the year 1983. The date of birth recorded in the class IVth category is required to be viewed under the extant rules and on the genuineness of the records, it is recommended that the change of date of birth from 6.9.32 to 6.9.34 may be obtained from the competent authority and communicated to this office by return DAK as Sri Kailash Pandey is due retirement on 30.9.90 and cannot be allowed to continue after 30.9.1990 unless the orders of the competent authority for the change of his date of birth are advised to this office.

This may kindly be REATED AS MOST URGENT.

DA/-

for Divl. Ry. Manager(P),
Lucknow.

1. Photostat copy of Service Record
2. Photostat copy of T.C. counter signed
by Inspector of Schools and Basic
Shikshan Akhada.

Chen 12/11/95

2078/2

A-2

A-2

In the Central Administrative Tribunal, Allahabad

Circuit Bench Lucknow.

M. P. 607/92

OA 330/90

Kailash Pandey

Versus

Union of India

In the above noted case it is submitted as under:-

That for the facts reasons and circumstances stated in the accompanying reply, the stay order granted is liable to be vacated.

It is therefore prayed that the stay order granted may kindly be vacated.

f.t.

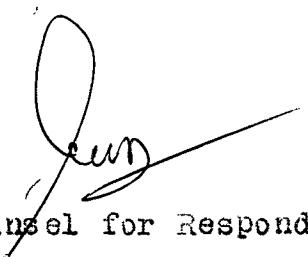
ctd

15/7/92

Lucknow

dated: 28.5.1992

15.7.92


Counsel for Respondent.

A 2.1
A 35

In the ~~xxxxxxxxxxxxxx~~

In the Central Administrative Tribunal Bench Lucknow.

O.A. 330 of 1990

Kailash Pandey Applicant

Versus

Union of India and others. Respondents.

Reply on behalf of the Respondents.

Para 1: That in reply to the contents of paragraph 1 of the application, it is submitted that it is incorrect for the applicant to say that he is 56 years of age. In fact on 28.9.'90, the date when the order was passed by the Hon'ble Tribunal, the applicant was aged 58 years short only by two days according to the date of birth recorded by the applicant in his own handwriting both in words and figures in the service record at the time of his appointment.

Para 2: Needs no reply.

Para 3: Needs no reply.

Para 4: Needs no reply.

Para 5: Denied. The application is barred by limitation.

Para 6:

(a) Denied for want of knowledge.

(b) Denied for want of knowledge.

(c) That in reply to the contents of paragraph 6(c)

of the application, it is submitted that no such
alleged application is available on record of the
administration. However service record opened at

M. Jayain
11/12/91

- (c) the time of appointment of applicant in the service indicates the date of birth as 6.9. '32 written both in words and figures in the applicant's own handwriting and bearing his signatures and thumb impression of the applicant. As such his allegations that he indicated any other date in his alleged application for appointment as totally false and incorrect. A true photostat copy of the first page of the service record, bearing the signature and thumbimpression of the applicant as well as the date of birth as 6.9. '32 in the own handwriting of the applicant both in fugure and words is annexed to this reply as Annexure No. C-1.
- (d) That in reply to the contents of para 6(d) of the application, it is stated that the applicant recorded in his own handwriting , the date of birth as 6-9-1932 both in figure and words. In these circumstances , it is incorrect for the applicant to say that the memo sending the application applicant for medical examination indicated the applicant aged about 20 years. From the service record it appears that he was medically examined on 23.10.49.
- (e) That in reply to the contents of paragraph 6(e) of the application, the appointment as indicated in the service record is 3-7-1954. Rest of the contents are not admitted for want of record.

*Algebra
11/12/11*

- (f) That in reply to the contents of paragraph 6(f) it is not denied that the applicant put his signature and thumb impression on the service record prepared on his appointment. It is also submitted that while putting his signature and thumb impression, the applicant also put the date of birth as 6-9-1932 in his own hand writing both in figure and words in the said service record.
- (g) That the contents of paragraph 6(g) of the application are totally incorrect and denied. It is stated that the allegations are belied in view of the fact that the applicant in his own hand writing declared his date of birth as 6-9 1932 both in figure and words in the service record.
- (h) That the contents of paragraph 6(h) of the application are denied. It is stated that the allegations are belied in view of the fact that the applicant in his own handwriting declared his date of birth as 6-9-1932 both in figure and words in the service record.
- (i) That no reply can be given to the allegations made in the para under reply, ^{in absence of any thing on record} It might be that he may have given an affidavit in view of categorical declaration in his own hand writing while entering the date of birth as 6.9.1932 both in figure and words in the service record, which besides this also contains his signature and thumb impression.
- Mugairi 11/12/41*

Para 6:

- (j) That the contents of paragraph 6(j) of the application are denied. It is submitted no such school leave certificate is available on record.
- (k) That the contents of paragraph 6(k) of the application are incorrect and denied. It is submitted that the applicant himself declared the date of birth as 6-9-'32 both in figures and words in his own handwriting in the service record prepared on the entering of the applicant in service, which record also contains his signature and thumb impression. His correct date of birth as declared at the time of entering into service was 6-9-1932 and no other date.
- (l) Not denied.
- (m) The fact of the applicant being promoted as Ticket Collector in Grade 260-400 (RS) in 1983 is not denied. It is stated that the promotion was on the basis of departmental competitive examination but not on basis of educational qualification.
- (n) Not denied.
- (o) In reply it is not denied that seniority list (after appointment or promotees of 1982) has not been issued in T.C. Cadre. Rest of the contents are denied. It is submitted that the applicant having himself declared in his own handwriting the date of birth as 6-9 1932 in the service record, cannot now say that he had no occasion to know ~~that~~ his date of birth was recorded in the service record.

Mysore
11/12/1981

- 5 -

Para 6:

(p) In reply, it is not denied that seniority list has not been issued for ticket collectors who were either appointed or promoted after 1982. Rest is not admitted.

(q) Not denied.

(r) That the contents not being in the knowledge of the administration are denied.

(s) Submission of representation by the applicant as contained in Annexure No. A-3 is not denied. It is also not denied that duplicate school leaving certificate was attached with the said representation.

It may be mentioned here again, that in view of his own declaration in his own writing both in figure and words about his date of birth as being 6.9.1932 in the service record, which also bears his signature and thumb impression, the facts alleged in the representation were incorrect to his knowledge and on that basis he could not get the recorded date of birth corrected on basis of school leaving certificate (duplicate) filed for the first time.

(t) That in reply to the contents of paragraph 6(t) of the application, it is submitted that in the case of the applicant none of the ingredients mentioned in sub. para (i) to (iii), in view of the fact that he had himself recorded in his own handwriting the date of birth as 6-9.1932 in the service record prepared on his appointment in service. The said ingredients come into play only when the employee

Aligarh
11/12/91

Para 6:

- (t) does not declare his date of birth in his own handwriting and the date has been entered by the administration on basis of oral or documentary declaration by the employee. The appointment of welfare Inspector is not denied.
- (u) Not denied.
- (v) Sending of letter no. 816-E/6-8/Etd./Pt.II dated 13.9.1990 by respondent no. 2 to the General Manager is not denied, which is contained in Annexure No. A-4.

It is submitted that due to an inadvertent mistake, it was pointed in the said letter that the date of birth of sri Pandey in his service record has been erroneously recorded as 6-9-1932 instead of 6-9-34, which means that recording of the date was taken to be done by the administration, which fact was wrong, in view of the fact that the date of birth as 6.9.1932 was recorded by the applicant himself in his own handwriting both in words and figures, which service record also contained his signature and thumb impression. Had the respondent no. 2 known of this fact, he would have never recommended the case to the General Manager for rectification of date of birth.

- (w) Not denied.
- (x) missing, hence no reply.
- (y) That in reply to the contents of paragraph 6(y) of the application, that in view of the applicant's retirement date on basis of recorded date of birth, he was correctly told that he would be retired on 30.9.'90.
- Mujair
11/12/91*

Para 6:

(z) That in reply to the contents of paragraph 6(z) of the application, it is submitted that the applicant was retired on the basis of correct date of birth recorded in the service record in the own handwriting of the applicant both in figure and words on his appointment to the service.

The allegations that the wrong date of birth was recorded due to administrative fault and delay is therefore false to the knowledge of the applicant.

(aa) That in reply to the contents of paragraph 6(aa) of the application, it is submitted that there is heavy evidence on record in the nature of date of birth being recorded by the applicant in his own handwriting in the service record, which also contained his signature and thumb impression. The order of his retirement on basis of correctly recorded date in the hand writing of the applicant himself cannot be termed as arbitrary and illegal.

(bb) That it is not denied that date of birth is allowed to be altered, but not in the circumstances which exist for the applicant. The allegations about discrimination which may be violative of Article 14 and 16 of the Constitution of India are totally denied.

(cc) That the contents of paragraph 6(cc) of the application are incorrect and denied. The applicant is being retired on basis of own declaration in his own handwriting in the service record that his date of birth is 6.9.1932 and not the wrong date of birth, as alleged.

Myers
11/12/91

Para 6:

(dd): That the contents of paragraph 6(dd) are denied. The retirement of the applicant cannot be termed as premature on basis of wrong date of birth. It is submitted that he has been correctly sought to be retired on 30.9.1990 on basis of correctly recorded date of birth in the own handwriting of the applicant in the service record both in figure and words. The recorded date of birth cannot be termed as wrong.

(ee) That in reply to the contents of paragraph 6(ee), it is submitted that the applicant is sought to be retired correctly on 30.9.'90 as per own declaration in the service record, which cannot be wrong declaration. The recommendation made by respondent no. 2, as already submitted above, was on the basis of his assuming the fact that the date was erroneously recorded by the department. The said fact on investigation was found to be incorrect, in view of the declaration having been made in the own handwriting of the applicant.

(ff) That the contents of paragraph 6(ff) are denied. It is submitted that evidence on record substantiates the decision of the department to retire the applicant on 30.9.'90 on basis of date of birth recorded correctly as 6-9-32 in the own handwriting of the applicant. The retirement thus cannot be termed as illegal and arbitrary.

M. J. Jain
11/12/91

Para 7: Needs no reply.

Para 8: Needs no reply.

Para 9: Denied. The applicant is not entitled to any relief and the application is liable to be dismissed with costs.

Grounds urged in the application are not tenable in as much as :

Ground number (a) is incorrect, in view of the fact that the applicant himself declared the date of birth as 6-9-1932 and recorded the same in his own handwriting in the service record both in words and figure.

Ground number (b) is incorrect, in view of the date of birth declared and recorded by the applicant in his own handwriting.

Ground number (c) is incorrect, in view of the fact the requirement cannot be termed as illegal or arbitrary, being based on correct date of birth recorded in the own handwriting of the applicant.

Ground No. (d) is incorrect. The order of retirement cannot be termed as arbitrary or discriminatory or in any way violative of Article 14 or 16 of the constitution of India.

Ground No. (e) is incorrect, in view of recording of date of birth in the own handwriting of the applicant in service record (Annexure No. C-1)

Aligarh 11/12/91

Para 10: Denied. The applicant is not entitled to Interim
Relief in the circumstances of the case.

Para 11 Needs No Reply.
 & 12

Lucknow.
Dated: 11.12.1991.

RESPONDENTS.

CERTIFICATION.

I, N K Jain working as Asst Personal Officer in the Office of Divisional Railway Manager, Northern Rly. Lucknow duly authorised and competent to sign and verify this reply, do hereby verify that the contents of para 1 to 12 are based on information derived from record and legal advice received which is believed by me to be true.

day of December '1991.

* Mycain
11/12/91.

Name (in full) Kartik PandeyAttachment
A/S

Particulars of Service

Left thumb impression



Witnessed

Ayodhya P.T.

class

Designation

Date

Accepted

Date

Periodical Medical Examinations

Initials

28.10.49

Nationality or Caste BrahminFather's Name Ram SinghResidence (in full) Village: Pater. Ps. Daspur
P.C. Bilkai. Dist. Sultanpur (U.P.)Date of birth 8-2-1932Place of birth (East Champaran District)

Height 5 ft. 6 in.

Distinguishing marks Cut mark on left handFore finger

Special qualifications

Date of appointment 3.7.1954Place, " PartapgarhPay on appointment Rs 35/- P.M.Health certificate A2 ClassSignature (of employee) Chandramohan

Date

Verifying Officer J. B. SinghDesignation Asstt. Personnel Officer

Date

Date of joining Provident Fund 3-7-1955Provident Fund Account No. T. 301142

Departmental Examinations (show failures in red)

Description	Date	Initials

Gratuity/Spl. Contribution to P. F.

Ordinary/Compassionate passed.

Date

Amount

Abstract No.

18/5
A/C
In the Central Administrative Tribunal, Allahabad

Bench Lucknow.

OA 330/90

Kailash Pandey

..... Applicant

Versus

Union of India and others

..... Respondent.

Supplementary Reply on behalf of the respondent:

1. That the genuineness of the letter dated 9.10.1990 is not denied. However, it is submitted that the decision is not final as would be evident from the last few lines: produced below:-
"The Division should see the original as well as take up with the Sr. Welfare Inspector who verified the same from the school record."
2. That as per welfare inspector enquiry, the school record is maintained for the relevant period in Urdu. The T/C submitted is in Hindi, therefore it can atmost be said to facts extracted from record maintained in Urdu and brought out in Hindi. It is therefore submitted that translated version cannot take place of the original, when original is available with the school authority. Moreover the Duplicate T/C issued does not indicate as to when the original was issued. It is thus submitted that translated version cannot take place of the original, when original is available with the school authority. Thus the genuineness of T/C(duplicate) cannot be claimed by the applicant in the absence of original record maintained in Urdu.

32/11/93

3. That the welfare Inspector got the translation of the alleged page 43/44 of the admission register and submitted a copy of the same, which is annexed to this reply. ^{Annexure No 1} From the annexure it would indicate that the admission relates to 1940, but the particulars at serial no. 215 and 217, if taken to be correct show their admission to be in 1941 and not 1940. Therefore either the admission register is manipulated or the translation is incorrect, and it is for the applicant to prove the correct version.
4. That no such T/C was submitted by the applicant, as alleged by him, after he had written in his own handwriting both in words and figure the date of birth in service record, in view of the fact that no such T/C is available in service record. It is submitted that to prove submission, the applicant should mention the date of submission of the said T/C as well as prove the submission by placing the receipt of the same obtained from the administration at the time of its submission, as alleged.
5. That though no seniority list was issued in the post of T.C. due to stay by the Hon'ble High Court, but the seniority lists were issued for the post of marksmen and with great effort seniority list issued for the post of marksmen for 1982 has been traced out and is annexed to this reply as Annexure No. 2.
It may be stated that the date of birth has been wrongly indicated as 5.4.'28 instead of 6-9-'32 mentioned in the service record. This may be due

- 3 -

This incorrect indicating of the date of birth in the seniority was due to administrative error, as the date of birth cannot be shown in the seniority list difference from the date of birth recorded in the service record, which is final.

However the fact remains that seniority list was issued, but no attempt was made by the applicant to get his date of birth corrected even in 1982 or thereafter because the date mentioned in the seniority list was to his advantage. Now when date of birth mentioned in the service record was shown in the retirement list, which is 6-9-'32 declared by him in his own handwriting in both words and figure, he makes a representation, which is highly belated and the applicant cannot at this stage say that my date of birth be corrected, when the date of birth shown in the retirement list is to his disadvantage.

6. That without prejudice to the plea taken by the respondents in their reply filed earlier to the effect that the date of birth was recorded in the applicant's own handwriting in the service record, both in words and figure, it is submitted that the applicant had sufficient opportunity to get the date of birth corrected in 1982 itself, when wrong date even against the date shown in service record, he did not choose to do so, since the said date indicated in the seniority list was to his advantage.
7. That the applicant cannot now at the fag end of service say that no seniority list was issued, he came to know only in the year 1990 when he made a representation, is factually wrong in of seniority list issued in 1982 and even earlier



- 4 -

issued which are not available at the present moment, but search is going on and if traced out would be placed at the time of arguments.

8. That the application being highly belated is liable to be dismissed, besides n merit as well, in view of his own declaration in the service record, in his handwriting in both words and figure.

Lucknow

dated: 21.1.1993

For and on behalf of
Respondents.

Verification.

I, P. N. Shyamal working as Asst. Personal Officer in the office of Divisional Railway Manager, Hazratganj Lucknow of Northern Railway duly competent and authorised to sign and verify this reply, do hereby verify that the contents of paragraph 1 to 8 are based on own knowledge derived from record and legal advice.

Verified this 21st day of January '93 at Hazratganj Lucknow.



Annexure No 2

AS AMR

Northern Railway

No. 8473/5-7/Gen.

Divl. Office,
Lucknow dt. 17.6.82.

SG LKO BSB SL & D PBR
SM's BBR CHG J. H. PEI BOY REL.
TRG/BSB
Divl. Secy. M. C. LKO.
Divl. Secy. U.G.C. LKO.

Sub:- Seniority list of Marksmen in Co. 210-270(PS).

The enclosed seniority list (provisional) of Marksmen is
enclosed herewith for circulation amongst the staff concerned to
enable them to submit their objections, if any, thereon within one
month from the date of issue of this letter.

In case no appeal is received in this office within the
stipulated period it will be assumed that the seniority list is in
order and will be treated as final and thereafter no appeal will be
entertained.

DA/As above.

Asstt. Personnel Officer (II),
Lucknow.

19/6/82

J.11/6

GDZ

Seniority List of Class Grade 8-20-27(35)

Sect

P.M.

Sl.	Name	Sc. No.	Desg. or	Stn. or	Date of birth	Date of entry	Conc.	Remarks.
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								
11.								
12.								
13.								
14.								
15.								

S/No.	Name	CT	210-210	1726	20	1928	1928	1928
1.	S. J. Raney	✓	✓	✓	✓	✓	✓	✓
2.	M. Fazil Khan	-6-	Q	BSB	-6-	-6-	-6-	-6-
3.	R.C. Risem	SHC	-6-	12728	12728	12728	12728	12728
4.	Jagdish	RBI	-6-	12728	12728	12728	12728	12728
5.	Baldeo Raj	BSB	-6-	12728	12728	12728	12728	12728
6.	Z. Khan	BSB	-6-	12728	12728	12728	12728	12728
7.	Ram Nath	BSB	-6-	12728	12728	12728	12728	12728
8.	P. S. Taran	BSB	-6-	12728	12728	12728	12728	12728
9.	Baldeo Singh	BSB	-6-	12728	12728	12728	12728	12728
10.	Ali Hussain	BSB	-6-	12728	12728	12728	12728	12728
11.	Jag Nath	BSB	-6-	12728	12728	12728	12728	12728
12.	Shoo Nath	BSB	-6-	12728	12728	12728	12728	12728
13.	P.M. Pendey	BSB	-6-	12728	12728	12728	12728	12728
14.	K. P. Math	BSB	-6-	12728	12728	12728	12728	12728
15.	B. Pendey	BSB	-6-	12728	12728	12728	12728	12728

15. Jyoti Kaur	-	3/1000 (210-270)	GI LIC BSE	210-270	2.12.31	2.12.52	1.8.75	-
16. Gur Dab Jhau	-	-	REI	-do-	1.7.25	7.1.45	1.8.75	-
17. Gur Dab Jhau	-	-	FD	-do-	24.3.32	21.6.55	1.8.75	-
18. Sriji Kaur	-	-	PBA	-do-	25.9.25	3.10.46	1.8.75	-
19. Gur Dab Jhau	-	-	SII	-do-	27.1.38	25.9.60	30.6.77	-
20. Gur Dab Jhau	-	-	GI LIC BSE	-do-	3.7.38	3.12.57	31.7.77	-
21. Gur Dab Jhau	-	-	GI LIC BSE	-do-	5.1.28	2.7.54	31.8.78	-
22. Gur Dab Jhau	30	-	GI LIC BSE	-do-	20.2.24	31.12.58	-	210-270 9.9.78
23. Kishore Pandey	-	-	GI LIC BSE	200-250	7.7.24	31.12.58	-	-
24. Chhoco Singh	-	-	GI LIC BSE	-do-	31.8.25	15.3.56	-	-do- 15.2.79
25. Ram Kishore Singh	-	-	BSB	-do-	-	-	-	-
26. Gur Dab Jhau	-	-	BSB	-do-	29.9.30	15.9.58	-	-do- 15.2.79
27. Gur Dab Jhau	50	-	GS LIC	-do-	3.4.43	20.2.70	-	-do- 26.10.79
28. Gur Dab Jhau	-	-	GS LIC	210-270	5.4.47	22.9.67	-	-do- 10.6.80
29. Gur Dab Jhau	-	-	SII	200-250	7.1.33	27.8.55	-	-do- 17.1.81
30. Gur Dab Jhau	-	-	LIC	225-300	5.10.26	5.10.49	-	-do- 11.5.81
31. Gur Dab Jhau	-	-	LIC	200-250	20.7.32	23.3.56	-	-do- 7.7.81
32. Gur Dab Jhau	-	-	FD	-do-	11.3.25	19.3.59	-	-do- -
33. Gur Dab Jhau	-	-	BSE	-do-	25.2.37	24.3.50	-	-do- 21.1.82

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BENCH AT LUCKNOW.

O.A. No. 330 of 1990.

Kailash Pandey _____ Applicant.

Versus

Union of India & Ors. _____ Respondents.

The applicant begs to submit as under :-

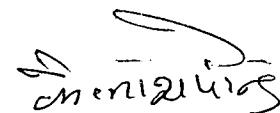
1. That the above case was last fixed on 24.11.92 and on that date, the Hon'ble Tribunal directed either parties to produce the letter by means of which the applicant's representation contained in Annexure No. A-3 to the application stands disposed of.
2. That the applicant has obtained a photo stat copy of letter bearing No. 522-E/17-2-90/EIC dated 9.10.1990 issued by the General Manager(P), Northern Railway, New Delhi to the Divisional Railway Manager, Northern Railway, Lucknow, by means of which the applicant's representation for correction of his date of birth stands disposed of. A true photo stat copy of the said letter dated 9.10.90 is being filed herewith.
3. That it is evident from the aforesaid letter that the applicant's representation was disposed of after filing of this case and no communication of it was made to the applicant. The

(2)

57
A 61

applicant has obtained the photo stat copy of the said letter through his own sources.

It is, therefore, respectfully prayed that the aforesaid letter dated 9.10.1990 may kindly be taken on record.

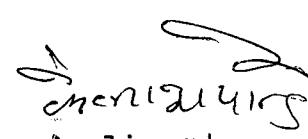

Chennalur

Dated: 4.12.92.

Applicant.

Verification:

I, the abovenamed applicant, do hereby verify that the contents of this application from paras 1 to 3 are correct to my personal knowledge. I have not suppressed any material fact.


Chennalur

Dated: 4-12-92.

Applicant.

Anandakumar

56

A.O.C

Annexure - D

(V)

Northern Railway

Headquarters Office
Baroda House
New Delhi.

No.: 522-B/17-2-90/BIC 09th October, 1990.

The Divl. Railway Manager,
Northern Railway,
Lucknow.

Reg: Alteration in date of birth of Shri
Kailash Pandey, Sr.T.C., Lucknow.

Ref: Your Office No.816-B/6/8/Rld/Pt. II
dt.24-2-90

The case for change in the recorded date of birth of Shri Kailash Pandey, Sr.TC, Lucknow, Gr.Bs.1200-2040(Res), was put up to the Competent Authority, who has regretted the same. The Competent Authority has also passed the following orders, which are reproduced for your information and necessary action under advice to this office:-

"The entries in the Service Record have been made by the employee himself in his own hand-writing. The Transfer Certificate now submitted i.e. at the fag end of his service career does not appear to be genuine. There is some over-writing. The Division should see the original as well as take up with the Sr.Welfare Inspector who verified the same from the school record."

The service record of Shri Kailash Pandey received vide your letter quoted above is returned.

DA: Service Record

3.4.95
(R.K. Sharma)
for General Manager(P)

.....

X
11/53
11/07

In the Central Administrative Tribunal, Allahabad
Circuit Bench Lucknow

OA 330/1990

Kailash Pandey

Applicant

Versus

Union of India

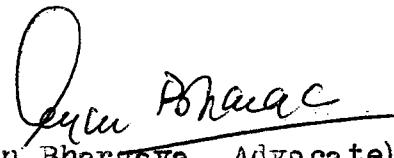
Respondent.

It is submitted on behalf of the Union of India, as under:

1. That in the above noted case, the applicant made an application for summoning certain documents from the respondent.
2. That the documents sought for relates to period 1949, 1954 and so on.
3. That rigorous search is going on to locate the documents and produce them before the Hon'ble Tribunal, but being old, the same requires time to trace them.
4. That in the circumstances, it is in the interest of equity and justice that some further time be allowed to trace the documents and to place them before the Tribunal. If the documents are not found even after frantic efforts, the reply to the application will be filed along with objections, if any within the allowed time.

It is therefore most respectfully prayed that 15 days further time be allowed to allow the respondents to trace out the summoned documents and place them before the Hon'ble Tribunal/ file their reply to the application for summoning the documents.

Lucknow
dated: 5.11.'92


(Arjun Bhargava, Advocate)
Counsel for Respondent.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BENCH AT LUCKNOW.

C.M. Application No. of 1992 in re:
O.A. No. 330 of 1990.

Kailash Pandey

Applicant.

Versus:

Union of India & another Respondents.

APPLICATION FOR SUMMONING OF RECORDS.

The applicant respectfully submits as
under :-

1. That before entering the railway service, the candidate, as per rule, is given an offer of appointment and on his acceptance, an order of his appointment is issued. The offer of appointment contains the conditions of his appointment.
2. That in terms of rule 2203 of the Indian - Railway Establishment Code Vol. II, every candidate, before entering the railway service, is got medically examined and to that effect a certificate is issued by the Medical authority wherein the ~~date~~ age, as declared by the candidate and the ~~date~~ age, as found by the Medical authority, are recorded against the columns provided therein.
3. That in para 6(i) of the counter reply, the respondents have said about an affidavit alleged to

have been filed by the applicant in support of his date of birth as recorded on the first page of his Service Record, but they have not filed the said affidavit.

4. That in para 6(d) of the counter reply, the respondents have said that the applicant, as per Service record, was medically examined on 28.10.49, but they have not filed the medical certificate.

5. That in the facts and circumstances of the case, it is necessary and expedient in the interest of justice that the respondents may be directed by this Hon'ble Tribunal to produce the following records, as indicated above, for proper adjudication of the case :-

- 1). Offer of appointment of the applicant.
- 2). Appointment letter of the applicant.
- 3). Medical certificate issued by the Medical Authority on applicant's appointment as R. R. Cook on 3.7.1954
- 4). Affidavit alleged to have been filed by the applicant in support of his date of birth.
- 5). Medical certificate in respect of applicant's medical examination on 28.10.1949.

Signature
It is, therefore, most respectfully prayed that this Hon'ble Tribunal may be pleased to direct

(3)

10
11

the respondents to produce the afo re-mentioned documents before this Hon'ble Tribunal for proper adjudication of the case.

Chanchal Singh

Dated: 12.10.92.

Applicant.

Verification:

I, the above-named applicant, do hereby verify that the contents of para 1 to 5 of this application are true to my knowledge. I have not suppressed any material fact. Signed and verified at Varanasi on 12.10.1992.

Chanchal Singh
Applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BENCH AT LUCKNOW.

O.A. No. 330 of 1990 (L)

Kailash Pandey _____ Applicant.

Versus

Union of India & another _____ Respondents.

I n d e x.

Sl. No.	Particulars.	Page No.
1. Rejoinder	...	1 to 13
2. Annexure No. A-5	... Notice dt. 29.6.92 issued by the Divl. Personnel Officer, Northern Railway, Lucknow.	14

Chandulal
Signature of the applicant.

Copy

28/7/92

AS CG
A/2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BENCH AT LUCKNOW.

O.A. No. 330 of 1990 (L)

Kailash Pandey _____ Applicant.

Versus

Union of India & another _____ Respondents.

REJOINDER TO THE COUNTER REPLY
FILED ON BEHALF OF RESPONDENTS.

I, the abovenamed applicant, file this rejoinder as follows :-

1. That before submitting para-wise reply to the counter reply filed on behalf of the respondents, it is relevant to state that the applicant has been declared as a Cancer patient and thus, he has been declared invalid for Railway service. Vide notice dated 29.6.1992 issued by the Divisional Personnel Officer, Northern Railway, Lucknow, the applicant has been relieved of his service with effect from 5.6.1992 with the direction to hand over complete charge of Railway property in his possession. A true photo stat copy of the said notice dated 29.6.92 is being filed herewith as Annexure No. A-5 to this rejoinder.

2. That in pursuance of the aforesaid notice, the applicant has handed over the charge of the

Annexure A-5.

21/2/92
OM

Railway property and now he is no more in the Railway service.

3. That the contents of para 1 of the counter reply are denied as stated. The actual date of birth of the applicant, as recorded in the School records as evident from Annexure No. A-2 to the application, is 6.9.1934 and not 6.9.1932. On perusal of first page of the Service record filed by the respondents as Annexure C-1 to their counter reply, the applicant has come to know for the first ~~the~~ time that date 6.9.1932 was written by him in the said page due to mistake and in absence of School certificate, which was subject to correction on production of authentic record regarding his date of birth. According to terms of appointment, the applicant was bound to produce confirmatory certificate such as School certificate, date of birth certificate and lastly the affidavit. In the event of non production of any certificate in proof of age, the appointment was liable to be cancelled. After some time of his appointment, the applicant submitted the School Leaving Certificate in original issued by the Basic Primary Pathshala, Harpur District Sultanpur where he had prosecuted his education upto class IV and thus, his appointment was not cancelled.

It is relevant to state that the applicant was not aware of the date of birth viz 6.9.1932 which he had incidently and mistakenly written in the first page of Service record. He

12/18

A/1

was always under the impression that he had written 6.9.1934 in the official record for which he subsequently submitted School Leaving Certificate showing the very same date of birth viz 6.9.1934. Since the respondents never issued any seniority list of the applicant after his appointment, he had no occasion to know about the wrong date of birth written by him due to mistake. After promotion, the respondents, however issued seniority list, but the name of the applicant was not shown therein; and as such, he could not know about his wrong date of birth. The applicant came to know about his wrong date of birth only when the respondents issued the retirement list dated 1.1.1990 (Annexure No. A-1) showing his date of birth as 6.9.1932. At this stage, the applicant obtained the second certificate of School Leaving from the aforesaid institution and made a representation dated 8.8.90 (Annexure No. A-3) to the respondent no.2.

On receipt of the aforesaid representation, the respondent no. 2 deputed his Welfare Inspector to verify the date of birth from the School ~~records~~ records. The Welfare Inspector verified the date of birth of the applicant from the original records of the aforesaid institution and submitted favourable report to the respondent no. 2, who arrived at a positive decision that date of birth viz 6.9.1932 was erroneously recorded in the Service record and thus, he recommended for alteration. Annexure No. A-4 to the application is self indicative of the facts stated by the applicant.

Amalgamated

It is also important to mention here that rule 145 (3) of the Railway Establishment Code Vol. I permits alteration of recorded date of birth if satisfactory explanation of the applicant is available to establish that wrong date of birth was entered in the official record. In view of this, the contention of the respondents that the date of birth ^{given} written by the applicant himself cannot be changed is not tenable.

4. That the contents of para 2 of the counter reply call for no remarks.
 5. That the contents of para 3 of the counter reply call for no remarks.
 6. That the contents of para 4 of the counter reply call for no remarks.
 7. That the contents of para 5 of the ^{reply} counter are denied and the averments made in para 5 of the application are reiterated.
 8. That the contents of para 6(a) of the counter reply are wrong and misleading, hence they are denied and the averments made in para 6(a) of the application are reiterated. Annexure A-4 to the application is self indicative of the fact that the respondents have sufficient knowledge of the facts stated in para 6(a) of the application. They have, therefore, denied the facts without any basis.
- 21/12/1977*

9. That the contents of para 6(b) of the counter reply are wrong and misleading, hence they are denied and the averments made in para 6(b) of the application are reiterated.

10. That in reply to contents of para 6(c) of the counter reply, it is submitted that the applicant was appointed on the basis of an application wherein full particulars including his correct date of birth were mentioned. With regard to other contents of the para under reply, the applicant, in para 3 of this rejoinder, has already mentioned the full facts under which the wrong date of birth viz 6.9.1932 instead of 6.9.1934 was mistakenly written by him.

11. That the contents of para 6(d) of the counter reply are vague and misleading, hence they are denied. The respondents are required to produce Medical Fitness Certificate of the applicant before this Hon'ble Tribunal. The medical fitness certificate is an important document and it is the part of Service record.

With regard to respondents' allegation that the applicant was medically examined on 28.10.1949 is totally false and baseless. No question of applicant's medical examination on 28.10.1949 was arising as he was appointed in the month of July, 1954. The respondents are required to produce before this Hon'ble Tribunal the medical certificate of 28.10.1949.

28.10.1954

12. That the contents of para 6(e) of the counter reply are not denied in so far as they relate to date of appointment of the applicant. Rest of the contents of the para under reply are denied and the averments made in para 6(e) of the application are reiterated. The relevant records which are to the benefit of the applicant are deliberately not being brought to the notice of this Hon'ble Tribunal by the respondents.

13. That the contents of para 6(f) of the counter reply, being evasive and misleading, are denied and the averments made in para 6(f) of the application are reiterated.

14. counter reply That the contents of para 6(g) of the ~~application~~ are misleading, hence they are denied and the averments made in para 6(g) of the application are reiterated.

15. That the contents of para 6(h) of the counter reply, as stated, are wrong and misleading, hence they are denied and the averments made in para 6(h) of the application are reiterated.

16. That in reply to contents of para 6(i) of the counter reply, the applicant reiterates the contents of para 6(i) of the application which have also not been denied by the respondents specifically. It is further respectfully submitted that

Signature

the applicant had submitted his School Leaving certificate in support of his educational qualification and date of birth being 6.9.1934. Since the applicant had passed class IV, there was no question to file affidavit.

17. That the contents of para 6(j) of the counter reply are denied and the averments made in para 6(j) of the application are reiterated.

18. That the contents of para 6(k) of the counter reply are misleading, hence they are denied and the averments made in para 6(k) of the application are reiterated. The applicant has already mentioned the circumstances under which wrong date of birth was written by him. It was subject to production of confirmatory certificate by the applicant and correction accordingly.

19. That the contents of para 6(l) of the counter reply call for no remarks.

20. That the contents of para 6(m) of the counter reply are admitted with the submission that educational qualification upto some standard was the necessary condition for being promoted to the post of Ticket Collector (Class III post) in grade Rs. 260-400 (RS). Since the applicant was class IV employee and had passed Class IV as well as Visharad in Hindi, he was considered for promotion in class III service that is for the

2 Mc. 17/32/16

post of Ticket Collector grade Rs. 260-400(RS).

21. That the contents of para 6(m) of the counter reply call for no remarks.

22. That the contents of para 6(o) of the counter reply, in so far as they relate to non issue of seniority list, are not denied. Rest are denied and the averments made in para 6(o) of the application are reiterated.

23. That the contents of para 6(p) of the counter reply are vague, hence they are denied and the averments made in para 6(p) of the application are reiterated.

24. That the contents of para 6(q) of the counter reply call for no remarks.

25. That the contents of para 6(r) of the counter reply are denied and the averments made in para 6(r) of the application are reiterated.

26. That the contents of para 6(s) of the counter reply, in so far as they are not contrary to the facts stated in para 6(s) of the application, are not denied. Rest are denied. The respondent no. 2, vide Annexure No. A-4 to the application, has himself arrived at a decision

20/11/2018

that date of birth viz 6.9.1932 was erroneously recorded instead of 6.9.1934.

27. That the contents of para 6(t) of the counter reply are incorrect and misleading, hence they are denied and the averments made in para 6(t) of the application are reiterated. The appointment of Welfare Inspector to verify the facts and the recommendation of the respondent no. 2 contained in Annexure No. A-4 to the application are self indicative of the fact that it was a fit case for alteration of date of birth. The submissions made by the respondents in the para under reply are based on after-thoughts. The respondents are required to produce the final decision taken by the General Manager, Northern Railway, New Delhi in the instant case before this Hon'ble Tribunal.

28. That the contents of para 6 (u) of the application have since been admitted by the respondents. In view of this, the case of the applicant cannot be turned down by the respondents merely on a technical error which is always cureable under the departmental rules.

29. That the contents of para 6(v) of the counter reply call for no remarks, in so far as they relate to sending of letter dated 13.9.90

Ansari (P.M.)

contained in Annexure No. A-4 to the application. Rest of the contents of the para under reply are wrong, misleading and are based on after thoughts, hence they are denied. The letter dated 13.9.90 (Annexure A-4) was written by the respondent no. 2 after due application of mind and verifying the facts from the original School records by deputing his Welfare Inspector.

30. That the contents of para 6(w) of the counter reply call for no remarks.

31. That the contents of para 6(x) of the counter reply call for no reply.

32. That the contents of para 6(y) of the counter reply call for no remarks.

33. That the contents of para 6(z) of the counter reply are denied and the averments made in para 6(z) of the application are reiterated.

34. That the contents of para 6(aa) of the counter reply are misleading, hence they are denied and the averments made in para 6(aa) of the application are reiterated.

It is further respectfully submitted that the applicant has already submitted that due to error and in the absence of School certificate, wrong date of birth was recorded by him in the 1st.

Signature

page of the Service record. Under the departmental rules, any wrong date ^{of birth} either written by the Administration itself or by the applicant himself can be corrected at a subsequent stage provided sufficient and satisfactory proof is available in justification. There is no rule at all that once the date of birth wrongly or rightly written by the applicant in the Service record is to be treated ^{as} final and that, in no circumstances, can be altered irrespective of any evidence.

In the instant case, sufficient satisfactory evidence such as the original School records and the certificate of the Principal countersigned by the ~~Re~~ Inspector of Schools are available to justify that wrong date of birth viz 6.9.1932 was written by the applicant in the Service record. The respondents do not say about these records to be false. In these circumstances, the genuine case of the applicant cannot be denied by the respondents merely on a technical error on his part. The action of the respondents, therefore, is punitive in nature and against the rules of the department.

35. That the contents of para 6(bb) of the counter reply which are not contrary to the facts stated in para 6(bb) of the application are not denied. Rest are denied. The respondents are required to a strict proof of the allegations made in the para under reply.

36. That the contents of para 6(cc) of

Ansawar Hussain

AS 1
XX

the counter reply are denied and the averments made in para 6(cc) of the application are reiterated.

37. That the contents of para 6(dd) of the counter reply are denied and the averments made in para 6(dd) of the application are reiterated.

38. That the contents of para 6(ee) of the counter reply are wrong, as stated, hence they are denied and the averments made in para 6(ee) of the application are reiterated.

39. That the contents of para 6(ff) of the counter reply are wrong and misleading, hence they are denied and the averments made in para 6(ff) of the application are reiterated.

40. That the contents of para 6 7 of the counter reply call for no remarks.

41. That the contents of para 8 of the counter reply call for no reply.

42. That the contents of para 9 of the counter reply are denied and the averments made in para 9 of the application are reiterated. In the facts and circumstances of the case, the applicant is entitled to the reliefs prayed for.

Amritpal Singh

The grounds urged by the applicant are tenable and the application deserves to be allowed by this Hon'ble Tribunal.

43. That the contents of para 10 of the counter reply are denied. In the circumstances of the case, the applicant was entitled to the interim relief prayed for.

44. That the contents of paras 11 and 12 of the counter reply call for no remarks.

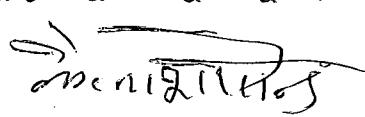


Lucknow:
Dated: -7-1992.

Applicant.

Verification:

I, the abovenamed applicant, do hereby verify that the contents of paras 42 to 43 & 44 are correct to my knowledge and those of paras 42 to 43 are correct to my belief. I have not suppressed any material fact.



Lucknow:
Dated: 67-1992.

Applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BENCH AT LUCKNOW.

O.A. NO. 330 of 1990 (L)

Kailash Pandey _____ Applicant.

Versus

Union of India & another _____ Respondents.

ANNEXURE NO. A-5.

उत्तर रेलवे

Northern Railway

Model No. 5.8/RTD/lt. II

Divisional Office,
Lucknow. Dtd 29th June 1992.

NOTICE

Shri Kailash Pandey S/o and Ram Lalbal Pandey
TTE/BSB having been declared invalid out of Railway
Service w.e.f. 9.6.92 vide Chief Medical Supdt's
letter no. 101/med/8/1P dated 22.6.92.

He should hand-over complete charge of Railway
property from his possession and also vacate Railway
Quarter, if any, failing which he is liable to pay
damages from such an unauthorised and wrong full possession/
occupation of the same.

Yours
S/o Divisional Personnel Officer,
Lucknow.

Copy to:-

1. Suptt. Steelmonger & Pay Bill
2. Station Suptt/BSB
3. LCI, LIO & CII/BSB.
4. S/o DAC/LIO
5. CLAS M.Rly. LIO in reference to L.M. 330(L)
6. CAC/LIO

29/6/92
K