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 :

ORDER

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

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

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. Morever 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

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 reightly 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 limini, without notice to the respondents.

MEMBER(J) MEMBER(A)

13/7/87

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REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
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Commercial Complex(BDA),
Indiranagar,
Bangalore - 560 038

Dated : 17-7-87

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

Applicant

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

To

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

2. **Sri.Ranganatha Jois, Advocate,**
   No.36, 'Vagdevi',
   Shankarapuram,
   B'lore- 4.

3. The Divl. Railway Manager,

Sublect: 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

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Hon'ble Sri P.Srinivasan Member(A)

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'True Copy'

Sd/- - -

MEMBER(J)

Sd/- - -

MEMBER(A)

17/7/87

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE