

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 25 JAN 1989

APPLICATION NO (S) 1557 / 88(F)

W.P. NO (S)

Applicant (s)

Respondent (s)

Shri A.C. Francis
To

V/s The Divisional Personnel Officer, Southern Railway,
Mysore

1. Shri A.C. Francis
Train Examiner
Southern Railway
Harihar
Chitradurga District
2. Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Sreenivasanagar II Phase
Bangalore - 560 050
3. The Divisional Personnel Officer
Southern Railway
Mysore Division
Mysore
4. Shri K.V. Lakshmanachar
Railway Advocate
No. 4, 5th Block
Briand Square Police Quarters
Mysore Road
Bangalore - 560 002

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER ~~SENT~~ ~~IN ORDER~~
passed by this Tribunal in the above said application(s) on 16-1-89.

Served
K.V. *[Signature]*
27-1-89

[Signature]
DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE EIGHTEENTH DAY OF JANUARY, 1989

Present : Hon'ble Sri P.Srinivasan

Member (A)

APPLICATION No.1557/88(F)

A.C.Francis,
Train Examiner,
Southern Railway,
Harihar,
Chitradurga Dist.

...

Applicant

(Sri M.R.Achar

...

Advocate)

vs.

Divisional Personnel Officer,
Southern Railway,
Mysore Division,
Mysore.

...

Respondent

(Sri K.V.Lakshmanachar

...

Advocate)

This application having come up before the Tribunal
today, Hon'ble Member (A) made the following :

ORDER

The applicant entered service of the Southern Railway
as a Kalasi on 6.12.1952. At that time his educational
qualification was S.S.C. failed. While in service he passed
S.S.C. in 1979 or thereabout. From 27.8.1962 he was promo-
ted as Fitter Group C and again by order dated 31.1.1979
he was further promoted as Train Examiner. In his service
book, the applicant's date of birth was recorded as 17.10.1931.
This entry was made at the time he entered the service. The
name of the applicant's father was recorded as Arokiaswamy
in the Service book. More than 35 years after his entry
into service, the applicant made a representation on

[Signature]

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13.2.1988 to the Divisional Railway Manager(DRM), Mysore, requesting that his date of birth in the service book be altered to 17.10.1935. The applicant also furnished to the authorities a copy of a Baptism certificate issued to him by the Immaculate Conception Church Railway Colony, Bangalore, in which his date of birth was shown as 7.10.1935. The DRM rejected the applicant's representation and the rejection was communicated to the applicant by letter dated 8.7.1988 addressed to him by the Divisional Personnel Officer, Southern Railway, Mysore. The reply stated "there is no provision to alter or modify the date of birth already entered in the Service Register." The applicant is aggrieved with this letter and seeks a direction to the respondents to consider his representation and dispose of it on merits.

2. Sri M.R.Achar, learned counsel for the applicant submitted that the respondents were not right in stating that there was no provision to alter or modify the date of birth already entered in the service Register. The Railway Board had issued instructions on 13.10.1936 as to how a request for change of date of birth had to be dealt with. On the question as to whether the representation submitted by the applicant on 13.2.1988 was late and barred by limitation, Sri Achar, relying ^{on} a number of decisions rendered by different Benches of this Tribunal, submitted that if a Government servant produces adequate evidence to show that the date of birth entered in his Service Book was

P. S. Achar

incorrect, the authorities should examine the case on merits, irrespective of when the representation is made. In view of this, he submitted that a direction be issued to the respondents to consider and dispose of the applicant's representation dated 13.2.1988.

3. Sri K.V.Lakshamachar, learned counsel for the respondents, strongly opposed the contentions of Sri M.R.Achar. Under the Rules governing the subject, a Railway servant belonging to Group C who was in service prior to 31.7.1973 could seek an alteration in his date of birth on or before 31.7.1973. The applicant who had joined service in 1952 should have approached the authorities with his request before 31.7.1973 and not having done so he could not make a representation on 3.2.1988. Moreover, the applicant had submitted a Baptism Certificate along with his representation in support of his claim that the date of birth recorded in the service book was incorrect. A Baptism Certificate not being a public document cannot be taken as primary evidence of date of birth. Moreover, there were discrepancies as between the Baptism Certificate and the applicant's claim. In the Baptism Certificate, the applicant's date of birth was recorded as 7.10.1935 while the applicant has sought a change of his date of birth to 17.10.1935. The name of the applicant's father was stated in the Baptism Certificate to be Anthony, while the service book recorded the name of his father as Arokiswamy. In view of these discrepancies, taken with the fact that the applicant's representation was made more than 35 years after the original entry in the service book at the time of appoint-



P. J. K.

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ment, the respondents had declined to entertain the said representation.

4. I have considered the rival contentions carefully. The prayer in the application is to set aside the order dated 8.7.1988 issued in the name of the Divisional Personnel Officer to the applicant and to direct the respondents to hold an enquiry on merits in respect of the applicant's representation for change of date of birth. The question that requires to be answered here is whether the respondents acted lawfully when they declined to entertain and examine the applicant's representation for change of date of birth.

It is true no period of limitation can be strictly applied for ~~examining~~ ^{entertaining} requests for change of date of birth. At the same time, the lapse of a long period after the original entry before a representation is made could raise doubts on the reliability of any evidence that may be produced at such a late stage. If non-controvertible evidence is produced one could say that the request for change of date of birth should be enquired into irrespective of when the representation is made. If the evidence ^M is produced is of a doubtful nature and the authorities feel that it is too late to examine the question all over again, they would be within their rights in refusing to entertain an application made after the passage of a long period of time. Now turning to the present case, the applicant states in this application that the date of birth recorded in the service book was furnished by his guardian when the applicant entered service and that the guardian made a mistake. What he relies on now is a Baptism Certificate. The certificate states that he was

baptised on 20.6.1962 i.e., when he was 27 years old even according to the age now claimed by him. Would such^{a M} document justify a fresh enquiry being made into the correctness of date of birth of the applicant? It did not claim to be a contemporaneous document prepared at the time of birth or soon thereafter. The authority issuing the certificate was not speaking from his own knowledge but would have recorded the date of birth as furnished to him by the applicant. This was in no way^M more reliable than the date of birth recorded in the Service Book. I have already referred to the discrepancies pointed out by the counsel for the respondents. No doubt counsel for the applicant had some explanation for the difference in the name of the father as between the entry in the service book and the Baptism certificate but that would need to be supported by evidence. Moreover, the discrepancy between the date of birth mentioned in the Baptism certificate and the date of birth now claimed by the applicant takes away the evidentiary value of the certificate. In view of these discrepancies it is futile to ask the authorities to go into question of the applicant's date of birth all over again, when the evidence now produced is in no way conclusive or even authoritative on the subject.

5. In view of the above I have no choice but to decline the applicant's request for the issue of a direction to the respondents to dispose of his representation dated 13.2.1988 onwards. The application is dismissed leaving the parties to bear their own costs.

TRUE COPY

[Signature]
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

Sd/-
MEMBER (A)

18/11/87

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated: **30 JAN 1989**

To

1. Shri Sanjeev Mahotra
All India Law Journal
Hakikat Nagar, Mal Road
Delhi - 110 009
2. Administrative Tribunal Reporter
Post Box No. 1518
Delhi - 110 006
3. The Editor
Administrative Tribunal Cases
C/o Eastern Book Co.,
34, Lal Bagh
Lucknow - 226 001
4. The Editor
Administrative Tribunal
Law Times
5335, Jawahar Nagar
(Kolhapur Road)
Delhi - 110 007
5. M/s All India Reporter
Congressnagar
Nagpur

Sir,

I am directed to forward herewith a copy of the undermentioned order passed by a Bench of this Tribunal comprising of ~~Hon'ble~~

~~Mr~~ Vice-Chairman/Member (A)
~~and~~ Hon'ble Mr P. Srinivasan Member (A) with a request
for publication of the order in the journals.

Order dated 18-1-89 passed in A. Nos. 1557/88(F).

Yours faithfully,

B.V. Venkata Reddy
(B.V. Venkata Reddy)
Deputy Registrar(J)

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H.V. Ven
30-1-89

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Copy with enclosures forwarded for information to:

1. The Registrar, Central Administrative Tribunal, Principal Bench, Faridkot House, Copernicus Marg, New Delhi - 110 001.
2. The Registrar, Central Administrative Tribunal, Tamil Nadu Text Book Society Building, D.P.I. Compounds, Nungambakkam, Madras - 600 006.
3. The Registrar, Central Administrative Tribunal, C.G.O. Complex, 234/4, AJC Bose Road, Nizam Palace, Calcutta - 700 020.
4. The Registrar, Central Administrative Tribunal, C.G.O. Complex(CBD), Ist Floor, Near Konkon Bhavan, New Bombay - 400 614.
5. The Registrar, Central Administrative Tribunal, 23-A, Post Bag No. 013, Thorn Hill Road, Allahabad - 211 001.
6. The Registrar, Central Administrative Tribunal, S.C.O. 102/103, Sector 34-A. Chandigarh.
7. The Registrar, Central Administrative Tribunal, Rajgarh Road, Off Shillong Road, Guwahati - 781 005.
8. The Registrar, Central Administrative Tribunal, Kandamkulathil Towers, 5th & 6th Floors, Opp. Maharaja College, M.G. Road, Ernakulam, Cochin - 682 001.
9. The Registrar, Central Administrative Tribunal, CARAVS Complex, 15, Civil Lines, Jabalpur (M.P.).
10. The Registrar, Central Administrative Tribunal, 88-A, B.M. Enterprises, Shri Krishna Nagar, Patna - 1 (Bihar).
11. The Registrar, Central Administrative Tribunal, C/o Rajasthan High Court, Jodhpur (Rajasthan).
12. The Registrar, Central Administrative Tribunal, New Insurance Building Complex, 6th Floor, Tilak Road, Hyderabad.
13. The Registrar, Central Administrative Tribunal, Navrangpura, Near Sardar Patel Colony, Usmanpura, Ahmadabad (Gujarat).
14. The Registrar, Central Administrative Tribunal, Dolamundai, Cuttak - 753 009 (Orissa).

Copy with enclosures also to :

1. Court Officer (Court I)
2. Court Officer (Court II)

B.V. Venkata Reddy
(B.V. Venkata Reddy)
Deputy Registrar (J)

9. 11. 85
K. H. G. N.
30-1-85

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P. J. [Signature]

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P. S. Achar

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P. J. V.

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TRUE COPY

BA. Subash Chandra
DEPUTY REGISTRAR (JULY 1987)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

Sd/-
MEMBER (A)

18/7/87

TRUE COPY

DEPUTY REGISTRAR (MIA)
CENTRAL ADMINISTRATIVE
BANGALORE