

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 16 DEC 1988

APPLICATION NO.

909

/88(F)

W.P. NO.

Applicant(s)

Shri S.S. Kadakol

To

Respondent(s)

V/s The General Manager, South Central Railway,
Secunderabad & another

1. Shri S.S. Kadakol
Kulkarni Hakkal
Mouleli Road
Hubli - 20

2. Shri S. Rangaswamy
Advocate
M/s KESVY & CO.
No. 139, 5th Cross
Gandhinagar
Bangalore - 560 009

3. The General Manager
South Central Railway
Secunderabad
Andhra Pradesh

4. The Deputy Chief Engineer
South Central Railway
Hubli - 580 020

5. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Building, 10th Cross
Cubbonpet Main Road
Bangalore - 560 002

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/INTERIM~~STAY~~ order
passed by this Tribunal in the above said application(x) on 6-12-88.

Encl : As above

SECTION OFFICER
DEPT. OF REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 6TH DAY OF DECEMBER, 1988

Present: } Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
 } and
 } Hon'ble Shri P. Srinivasan, Member (A)

APPLICATION NO. 909/1988

Shri S.S. Kadakol,
S/o Sheshagiri Rao,
aged 57 years,
Senior Drafts Man,
South Central Railways,
Hubli Power House,
Kulkarni Hakkal,
Moulali Road,
Hubli-20.

.... Applicant.

(Shri S. Rangaswamy, Advocate)

v.

1. General Manager,
South Central Railways,
Hubli Division,
Secunderabad,
Andhra Pradesh.

2. The Dy. Chief Engineer,
South Central Railway,
Hubli.

.... Respondents.

(Shri M. Sreerangaiah, Advocate)

This application having come up for hearing to-day,
Vice-Chairman made the following:

ORDER

This is an application made by the applicant under
Section 19 of the Administrative Tribunals Act, 1985 (Act).

2. Shri S.S. Kadakol, the applicant before us, joined
the Indian Railways on 12.11.1957. When he joined service,
the service register of the applicant recorded his date of
birth as 28.2.1929. On the basis of that entry, the super-
annuation of the applicant had been computed and he was re-
tired from service on 28.2.1987.



3. On his retirement, there was a dispute on the recorded date of birth resulting in withholding a portion of the pension and other retiral benefits due to the applicant. On 7.3.1937, the applicant voluntarily wrote to the Workshop Personnel Officer, Hubli (WPO) (Annexure-87) agreeing to his date of birth recorded as 28.2.1929 and his retirement from service. On that all the amounts due to the applicant have been settled. But notwithstanding the same the applicant, on 10.8.1938 has approached this Tribunal for a direction to correct his date of birth as 30.1.1931 and to regulate his conditions of service on that basis.

4. In resisting the application, the respondents have filed their reply and have produced their records.

5. In making this application, there is a delay of 105 days. In I.A. No.I filed under section 21 of the Act, the applicant has sought for condonation of that delay.

6. Shri Rangaswamy, learned counsel for the applicant contends that all the facts and circumstances stated in I.A.No.I constitute a sufficient ground to condone the delay, deal with the merits and hold in favour of the applicant.

7. Shri M. Sreerangaiah, learned counsel for the respondents, contends that all circumstances stated in I.A. No.I, do not constitute a sufficient ground to condone the delay, and that even on merits, the applicant, had no case at all.

8. Admittedly, the applicant was retired from service on 28.2.1987. Whatever be the dispute for correction of his date of birth, there cannot be any dispute on the fact that the cause of action for him arose on 28.2.1987. When so computed, there is a delay of 105 days. Even assuming, there was some correspondence with the authorities, that will not in any way constitute a sufficient ground for condoning the delay. We are of the view that every one of the facts and circumstances stated in I.A.No.I do not constitute a sufficient ground for condoning the delay. On this view, I.A.No.I is liable to be rejected.

9. Whatever be the earlier controversy, on 7.3.1987, the applicant wrote a letter accepting that the earlier recorded date of birth namely 28.2.29 was his correct date of birth. That letter written by the applicant reads thus:-

"I agree with my retirement on 28th Feb. 87, and I have withdrawn all my documents, which have been appealed before my retirement. My date of birth is 28.2.29, as known to me, but there is no documentary evidence such as School Leaving Certificate, Birth extract etc.,

So I request you to settle my dues and clear my settlement towards my retiring as on 28.2.87."

In this letter, the applicant had voluntarily admitted that his correct date of birth was 28.2.1929 and he has been correctly retired on 28.2.1987. From this admission the applicant cannot resile and urge that his date of



birth was anything other than 28.2.1929. On this short ground the application is liable to be rejected without examining all other questions.

10. On the foregoing discussion, we hold this application is liable to be dismissed. We, therefore, dismiss this application. But, in the circumstances of the case, we direct the parties to bear their own costs.



Sd/-


VICE-CHAIRMAN

6/12/60

Sd/-

MEMBER (A)

TRUE COPY


SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
6/12