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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**NEW BOMBAY BENCH****O.A. No 899/90**
~~XXX~~**198****DATE OF DECISION 22.4.1991****Mr. Madhukar Govind Kulkarni** Petitioner**Shri S.N. Inamdar,** Advocate for the Petitioner (s)**Versus****Chief Gen. Manager, Telecom** Respondent**Mr. V.M. Pradhan, for P.M. Pradhan** Advocate for the Respondent (s)**CORAM****The Hon'ble Mr. U.C. SRIVASTAVA, Vice-Chairman,****The Hon'ble Mr. M.Y. PRIOLKAR, Member (A)**

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(3)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
NEW BOMBAY

ORIGINAL APPLICATION NO.899/90

Shri Madhukar Govind Kulkarni
Telephone supervisor, Sangli,
Telephone Office.

.... Applicant

Vs.

The Chief General Manager,
Telecom, Maharashtra Circle,
Bombay.

.... Respondents

CORAM : HON'BLE SHRI U.C.SRIVASTAVA, Vice-Chairman

HON'BLE SHRI M.Y.PRIOLKAR , Member(A)

Appearance :

Mr.S.N.Inamdar,Adv,
for the applicant

Mr.V.M.Bendre,Adv, for
Mr.P.M.Pradhan, adv,
for the respondents

ORAL JUDGMENT

Dated: 22.4.1991

(PER : U.C.SRIVASTAVA, Vice-Chairman)

This application is filed by the applicant who has prayed that direction be given to the respondents to make necessary correction in his date of birth as mentioned in the service record which is 15th July 1933 and the same may be corrected as 13th June 1935, so that he may not be thereby asked to retire in the month of July 1991. The applicant was appointed as Telephone Operator on 15.11.1956. He had prior to his appointment passed S.S.C. examination and on the basis of S.S.C. certificate, given his date of birth as, 15th July 1933 and entry

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in his service record was accordingly made. It appears that after passing S.S.C. examination he is studying in Willington College, Sangli, and there on the basis of some affidavit he got his date of birth entered as 13th June 1935 and not 15th July 1933 without getting the S.S.C. certificate corrected. Some two months after joining his service in the year 1957, he made an application for correction of date of birth. The reply was given to him telling he should first correct the date from S.S.C. Board and then apply to the Department for necessary correction. In the year 1990 the applicant again approached the Chief General Manager, Telecom Department, Bombay, for correction but his prayer was not granted, that is why he has approached this Tribunal.

2. The application was opposed on the ground that as long as his recorded date of birth in S.S.C. certificate continues no correction in the service record is possible. In this connection the relevant Rule 56 of FR and notification of 1979 have been relied on. The notification reads as follows:

NOTE 5 : The date on which a Government servant attained the age of fifty eight years or sixty years, as the case may be, shall be determined with reference to the date of birth declared by the Government servant at the time of appointment and accepted by the appropriate authority on production, as far as possible, of confirmatory documentary evidence such as Higher Secondary or Secondary School Certificate or extracts from Birth Register. The date of birth so declared by the Government Servant and accepted by the appropriate authority shall not be subject to any alteration except as specified in this note. An alteration of date of birth of a Government servant can be made, with the sanction of a Ministry or department of the Central Government, or the Comptroller and Auditor General in regard to persons serving in the Indian Audit and Accounts Departments, or an administrator of an Union Territory under which the Government servant is serving if-

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- a) a request in this regard is made within five years of his entry into Government service
- b) It is clearly established that a genuine bonafide mistake has occurred; and
- c) the date of birth so altered would not make him ineligible to appear in any School or University or Union Public Service Commission examination in which he had appeared, or for entry into Government service on the date on which he first appeared at such examination or on the date on which he entered Government service.

3. The contention on behalf of the applicant is that the notification is of the year 1979 and the same is not applicable to him. Even then, so long as the S.S.C. certificate is not changed, it will not be possible for the department to change the date of birth already accepted on the basis of S.S.C. certificate. The applicant did not give his correct age. It appears that the applicant did not file any certificate from the Willington College, Sangali, in which his date was given as 13th June 1935. Hence the department had ~~does~~ no option but to reject the representation of the applicant for correction of date of birth. Learned counsel for the applicant pointed out that notwithstanding the age mentioned in the S.S.C. certificate, the same can be corrected on the basis of certificate issued by another institution where the date of birth was correctly recorded. It is still open to the applicant to get his date of birth corrected in S.S.C. certificate and in case the same is corrected there appears to be no reason why his age should not be corrected by the Departmental authority. The S.S.C. certificate may still be got corrected notwithstanding the fact that his prayer, in this application is being rejected. The authorities can then consider the prayer of the applicant on the basis of relevant

documents including the applicant's conduct in getting date of birth corrected in the record of Willington College much before he entered service. With these observations^{in and direction} the application is rejected. There is no order as to costs.

S.Y. Priolkar
22-4-91
(M.Y. PRIOLKAR)

Member (A)

U.C. Srivastava
(U.C. SRIVASTAVA)
Vice-Chairman