

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 73/91.

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DATE OF DECISION 24.4.1991.Shri Boni B. Golvalla PetitionerMr. G.S. Walia Advocate for the Petitioner(s)

Versus

Union of India & Others. RespondentMr. N.K. Srinivasan 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 ?

U.C.Srivastava
 (U.C. SRIVASTAVA)
 VICE CHAIRMAN.

(5)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

O.A.73/91.

Shri Boni B. Golvalla .. Applicant.
V/s.
Union of India & Others .. Respondents.

Coram E Hon'ble Vice Chairman Shri U.C. Srivastava.
Hon'ble Member(A) Shri M.Y. Priolkar.

Appearances:

Mr.G.S. Walia, Advocate
for the applicant.

Mr.N.K. Srinivasan, Advocate
for Respondents.

ORAL JUDGMENT :

Date : 24.4.1991.

¶ Per : U.C. Srivastava, Vice Chairman ¶

The applicant who joined the railway service has challenged the date of birth recorded as 16.4.1933 on the basis of medical examination which is subsequently stated to have been corrected to 1.9.1935. He is being retired on 30.4.1991. Now Headclerk in the Office Divisional Railway Manager, Bombay Central, he was appointed on 16.4.1952 as Record Sorter and in the service record his date of birth is 16.4.1933 stated to be on the basis of some certificate after medical examination which is not on record, but the service sheet containing this date of birth was duly signed by the applicant in English in token of having accepted it which was duly attested by the Electrical Engineer, Ajmer.

At that stage the applicant voluntarily accepted that his date of birth was 16.4.1933. Till the fag end of his long tenure of service no representation for correction of service record regarding date of birth has been made. The first representation in this behalf is on 29.10.1990 followed by two more representations dtd. 26.11.1990 and 7.12.1990. Even though the literate employees were given time upto 31.7.1973 for getting correction made in the service record in view of the amendment made in Rule 145 of the All India Railway Establishment Volume 1. The applicant did not make any representation for correction in his age for the amendment in this rule or after issuance of this circular which provides 6 months time for making representations.

2. It is true that record indicates that there are different dates recorded at different times in the Provident Fund withdrawal forms. The relieving order dtd. 27.7.1963 issued by IOW (MG) Sabarmati indicates that his date of birth is 1.9.1935. The certificate forms indicate the date 1.9.1935 but D.S. Rajkot's letter dtd. 24.5.1963 indicates date of birth as 16.4.1933 and in report of Accounts Inspector his date of birth is shown as 16.4.1933 i.e. which is shown in his service record.

3. When the ELC (MG) Ahmedabad called for his School certificate vide his letter dated 20.3.1957, the applicant

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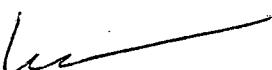
replied that he had submitted the school certificate to D.E.E.(W), Ajmer, but subsequently stated he has lost the School Certificate in travel and does not remember even the name of the school. Again on 9.2.1959 the DPO, Rajkot asked him to submit the school certificate to regularise the discrepancy occurred in the date of birth in service sheet, but he did not respond till 29.10.1990 i.e. till he was near retirement when he only produced a xerox copy of transfer certificate issued by Rajasthan School. It is to be noted that earlier he stated he does not remember even the name of the school where he was studying. If this date of birth was 1.9.1935, at the time of employment his age would have been 16 years 7 months and 15 days and thereby he would not have been appointed being underage. No rule has been shown to us which indicates that he was amongst those employees of Railways who could have been taken in service without completion of age of 18 years.

4. It is true that alteration in the age could be permitted except with the specific sanction of General Manager if such application is received within six months of appointment. As per para 25 G.M. Manual Vol. 1 of ex. BB C~~I~~ Railway. The date of birth as recorded in accordance with extant rules is to be taken as binding and no alteration can ordinarily be permitted except that only the General Manager/Chief Personnel Officer can alter the same if it is found that his age was falsely stated by the Railway servant to gain advantage otherwise inadmissible but

the result of the same should not be to extend railway servant in the service longer than if the lateration has not been made and when a **satisfactory** explanation of the circumstances of wrong date was available. No such circumstances could be pointed out and no such explanation of the circumstances as to how he was taken in service when he had not completed 18 years of age.

5. We do not find that any error has been committed by the authority concerned in rejecting his representation. After taking into consideration the totality of the circumstances, we are of the view that the applicant's claim for change in date of birth is not supported by any provisions of the Railway Establishment Code or the departmental instructions or because of any factual decrepencies. Accordingly we do not find any substance in the application which is, accordingly dismissed. There will be no order as to costs.


(M.Y. PRIOLKAR)
MEMBER(A)


(U.C. SRIVASTAVA)
VICE CHAIRMAN.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

Review Petition No. 120 of 1992

(In O.A. 73 of 1991)

Shri Boni B. Golvalla Applicant

Vs

Union of India and Others Respondents

Coram: Hon'ble Mr. Justice U.C. Srivastava, V.C
Hon'ble Member(A) Shri M.Y. Priolkar

(By Hon. Mr. Justice U.C. Srivastava)

01.12.8-92

This belated review application by two days is against the judgment and order dated 24.4.1991. The case was heard and disposed of after hearing the counsel for the parties. The scope of review application is limited and the same does not mean reconsideration of the arguments on the same point. It cannot be said that any wrong facts have been assumed. The applicant has stated that the respondents will be at liberty to further consider the representation of the applicant and correct the date if they so desire. It is not known whether the said observation was made, even then it is always open for the respondents to consider the same. There is no error apparent on the face of the record and accordingly the review application is dismissed.


Member(A)


Vice Chairman

Dated: 12th August, 1992: