

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

ST O.A. No.481/91 (OA 574/91) 198
T.A. No.

DATE OF DECISION 27-9-1991

Chandrakant Aba Sonawane Petitioner

Mr.C.Nathan Advocate for the Petitioner(s)

Versus

Union of India Respondent

Mr.J.G.Sawant Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.Y.Priolkar, Member(A)

The Hon'ble Mr. T.C.Reddy, Member(J)

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

MGIPRRND-12 CAT/86-3-12-86-15,000


 (M.Y. PRIOLKA R)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Stamp No.481/91 (OA 574/91)

Chandrakant Aba Sonawane,
Driver Grade 'A',
Central Railway Quarter No.J/253,
Pandharpur Railway Station,
Dist.Sholapur. .. Applicant

vs.

The Union of India
through
The Divisional Railway Manager,
Central Railway,
Sholapur. .. Respondent

Coram: Hon'ble Shri M.Y.Priolkar, Member(A)

Hon'ble Shri T.C.Reddy, Member(J)

Appearances:

1. Mr.C.Nathan
Advocate for the
Applicant.
2. Mr.J.G.Sawant
Advocate for the
Respondent.

ORAL JUDGMENT: Date: 27-9-1991
(Per M.Y.Priolkar, Member(A))

The applicant joined the service of the Central Railway, Solapur Division as Khalasi on 1-1-1954. His grievance is that although his date of birth is shown in the service record as 1-10-1933, the correct date of birth is 17-3-1937. According to the applicant, only after unofficially he came to know that his date of retirement has been fixed as 1-10-1991, he immediately made a representation on 25-12-1990 to the respondents to rectify the mistake. He has now produced a school leaving certificate from a private school dtd. 23.3.1990, where his date of birth has been shown as 17-3-1937. He also states that his elder brother who is also a Driver 'B' in the Railways is to retire in October, 1991, ^{his} brother's date of birth being 25-10-1933, which shows that the applicant could not have ^{been} born on the date of birth as recorded in the applicant's service record. The applicant has also filed an

affidavit in support of his statement that his correct date of birth is 17-3-1937. The learned counsel for the applicant also argued that in the Railway's record there are three different dates given regarding the date of birth of the applicant viz. 1-10-1933 in the service book, 11-3-1934 in a communication dtd. 9-2-91 regarding some Loco running staff changes where his date of birth ^{been} has shown as 11-3-1934 and lastly in a medical certificate issued by a Railway Medical Doctor on 17-4-1990 where his age is stated to be 56 years which would mean that his date of birth would ^{be} sometime in April, 1934.

2. The respondents have filed their reply resisting the application. According to the respondents the applicant did not produce any documentary evidence about his age at the time of his appointment. He was medically examined by Chief Medical Officer on 1-10-1953 and his age was declared as 20 years. His date of birth was accordingly recorded in his service record as 1-10-1933 and ^{This entry in} the register was also attested by a senior officer. We have also seen the service record which shows that the applicant has signed the service register in English, on the same page where the date of birth has ^{been} recorded as 1-10-1933. Respondents have also stated that on a number of occasions when the applicant was sent for medical examination he had himself declared his age on each such occasion which confirmed ^{him} that his date of birth was about 1-10-1933. They have also stated that on a number of occasions when the applicant had applied for loan from the Employees Cooperative Credit Society, his declaration of age generally tallied with the recorded date of birth. According to the respondents, therefore, during all these years of service, he knew about his recorded date of birth and he never raised a dispute or say about the same.

3. It is well settled that a date of birth which has been recorded and attested by the applicant himself at the time of joining service and which has remained unchanged for a long time, as in the present case, can be permitted to be altered only if some authentic documentary evidence is available. In the present case, the school leaving certificate from a private school or the affidavit of the interested party cannot be considered to be such unimpeachable evidence. The fact that there are three different recorded dates in the railway record should not also establish that the correct date of birth of the applicant is as claimed by him. The relevant date for the purpose of determining the date of superannuation is the date as recorded in the service book alone, in accordance with the rules. The fact that some other date is available in some other record for different purpose will not mean that the recorded date of birth in the service book is not a genuine or correct date of birth. It is also to be noted that if the applicant's claim is accepted that his date of birth is 17-3-1937, it would mean that he was appointed as a Khalasi at the age of less than 17 years on 1-1-1954. The learned counsel for the applicant was not able to show any evidence before us that the age limit in his case had been relaxed by the competent authority. Learned counsel for the applicant Mr. Nathan relies on a judgment of the Chandigarh Bench of this Tribunal delivered on 9-10-1987 in the case of Union of India v. V.K. Sharma, 1989(1)AISLJ(CAT)592, in which it has been held that there is no limitation for correction of date of birth entry in the Register. Mr. J.G. Sawant learned counsel for the respondent has cited the case of N.C. Chaudhry v. Union of India decided on 12-2-1986, ATR 1986 CAT 139, wherein it has been held that the date of birth

recorded in medical examination report and signed by the applicant at the time of entering into the service deserves more evidentiary value than the recent document of the school certificate.

4. Since we have considered the case on merits and not on the basis of a limitation, we do not think it necessary to go into the rival contentions of both the sides regarding limitation. On the basis of the evidentiary value of the evidence produced and also the fact that the applicant has derived some advantage by securing employment even though according to the date of birth claimed by him he would have been less than 17 years of age at the time of initial appointment and also since in our view, no genuine or authentic unimpeachable evidence has been produced in support of his claimed date of birth, we see no merit in this application which is accordingly rejected with no order as to costs.

T. C. R
(T.C.Reddy)
Member(J)

M.Y.Priolkar
(M.Y.Priolkar)
Member(A)