CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No:

O.A. no. 326/91

Transfar Application No:

DATE OF DECISION: __23.6.1994__

Namdeo Sakharam Wadekar _____Petitioner

Mr. M S Ramamurthi
_____Advocate for the Petitioners

Versus

Union of India & Ors.
---Respondent

Mr. S.C. Dhawan
_____Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S. Deshpande, Vice Chairman

The Hon'ble Shri

1. To be referred to the Reporter or not ?   No.

2. Whether it needs to be circulated to other Benches of
    the Tribunal ?   No.

    _____
    V.C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, GULESTAN BUILDING NO.6
PRESCOT ROAD, BOMBAY 1

O.A. NO. 326/91

Namdeo Sakharam Wadekar   ..Applicant

V/s

Union of India & 2 ors.   ..Respondents

Coram: Hon. Shri Justice M.S. Deshpande, Vice Chairman

APPEARANCE:

Mr. M S Ramamurthi
Counsel for the applicant

Mr. S C Dhawan
Counsel for the respondents

ORAL JUDGMENT: DATED: 23.6.94
(Per: M S Deshpande, Vice Chairman)

        The only question which is required to be examined
in this case is whether the applicant's date of birth
was noted on account of an error in the service record
as 25.3.1933 instead of 25.3.1936, which is the date
of birth which appeared in the School leaving
Certificate.

2.   The applicant had been employed with the
respondents for two spells. He came to be employed later
on 14.3.1955 as a Basic Tradesman. The applicant applied
on 7.3.88 complaining about the error which had crepped
in the record of his date of birth. A clarification
was sought from the applicant with regard to his request
and a Welfare Inspector visited the School to which
the applicant belonged on 6th and 7th January 1989.
What was reported by the Welfare Inspector cannot be
ascertained from the material placed before the Tribunal.
Shri Ramamurthi, learned counsel for the applicant urged
that this is not a case where he was asking for a change

in the date of birth which was in the record, but only for a correction of a clerical error which had crept into the record. The emphasis was on the contention that the applicant had produced the School Certificate recording his date of birth at the time of joining his service but this has been disputed by the respondents. The applicant went on making applications asserting that he had submitted the School leaving Certificate to show that his date of birth was 25.3.1936 and he realised on 7.3.1988 that there was an error in recording the date of birth.

3.   It is difficult to accept the applicant's contention in this respect because in the seniority list which was circulated from 1955 the appliant's date of birth was shown as 1933. The applicant's contention is that he had not noticed the date of birth in the seniority list because what he was concerned was his order/position in the seniority list. It is difficult to digest this contention. Reference was also made on behalf of the respondents to the application which the applicant had made for loan in which the date of birth was shown as 25/3/1933. With regard to this it is submitted that the applicant's anxiety was to obtain the loan and he would have mentioned this date of birth in the application because that date would be taken from whatever record was available. In the Share Register of the Central Railway Employees Cooperative Credit Society also the applicant had recorded his date of birth as 25.3.1933 and that was a document dated 9.7.1987 which was prior to the application that the applicant had made. The next circumstance on which reliance was placed on behalf of the applicant was that the applicant had been sent for medical examination and in the medical certificate dated 20.9.1954, the doctor certified that the age of the applicant as 20 years and on that basis the applicant's date of birth would be 30.9.1934. The question is whether the medical certificate would destract the varacity of the first entry made in the

Service Book with the thumb impression of the applicant. It is contended that the date of birth entered as 25.3.33 with the thumb impression would be improbable as the applicant has passed 7th standard which is the minimum qualification that was required for the job. In the face of documentary evidence to which I have referred to above, it is difficult to rely on the opinion evidence of the Doctor for coming to the conclusion that the date of birth would be 30.9.1934. Since the basis of the argument of the learned counsel was that this is a case of error and not a case of change in date of birth and since I find that material on record does not support the theory of error, I see no merit in the application. The attempt to get the date of birth changed should have been made as per the Indian Railway Establishment Code within a specified time and in view of the observations in UNION OF INDIA Vs. HARMAN SINGH, 1993 SCC I&S 375 the present application cannot succeed.

4. The application is therefore dismissed. No order as to costs.

(M.S.Deshpande)
Vice Chairman

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

<u>BOMBAY BENCH, BOMBAY.</u>

Review Petition No.99/94
                in
<u>Original Application No.326/91.</u>

Namdeo Sakharam Wadekar.   .... Applicant.

              V/s.

Union of India & Ors.   ..... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande,Vice-Chairman

<u>ORDER ON REVIEW PETITION No.99/94</u>

[Per Shri M.S.Deshpande, Vice-Chairman] Dt. 30.8.1994.

        By this application, the applicant seeks
a review of the Order passed on 23.6.1993 in OA No.326/
91 on the ground that certain new facts have come to
light after the decision was rendered earlier, which
the applicant could not have known.   There is no
merit in this submission because the entire documentary
evidence was considered in para 3 of the Judgment.
Even the documents to which the reference is being
made in the Review Petition were to have been
considered, the decision would not have turned otherwise.
It was only a question of change in date of birth
which the learned counsel for the applicant described
as an error and this contention was not accepted.
There is no merit in the Review Petition, it is
dismissed.

                                    (M.S.DESHPANDE)
                                    VICE-CHAIRMAN

     B.