

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

(B)

O.A. NO: 80/91 199  
T.A. NO: -----

DATE OF DECISION ~~14-7-1992~~ 14-7-1992

M.V.Kulkarni

Petitioner

Mr.S.R.Patwardhan

Advocate for the Petitioners

Versus

Union of India and ors.

Respondent

Mr.V.M.Bendre

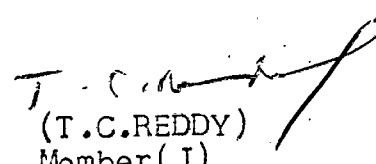
Advocate for the Respondent(s)

CORAM:

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

The Hon'ble Mr.---

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 ?

  
(T.C.REDDY)  
Member(J)

MD

mbm\*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A.80/91

Madhukar Vinayak Kulkarni,  
1145, Kasba Peth,  
Pune 411 011.

.. Applicant

vs.

1. Union of India  
Secretary,  
Ministry of Communications,  
(Dept. of Telecommunications),  
New Delhi.
2. The Chairman,  
Dept. of Telecom,  
Dak Tar Bhavan,  
Parliament Street,  
New Delhi 110 001.
3. Dy. Director General (Staff),  
Dept. of Telecom,  
Dak Tar Bhavan,  
Parliament Street,  
New Delhi - 110 001.
4. The Chief Gen. Manager,  
Maharashtra Telecom Circle,  
Fort, GPO Bldg.,  
Bombay.
5. The General Manager,  
Pune Telecom District,  
Telephone Bhavan,  
Bajirao Road,  
Pune - 411 002. .. Respondents.

Coram: Hon'ble Shri T. Chandrasekhara Reddy,  
Member (J).

Appearances:

1. Mr. S. R. Patwardhan  
Advocate for the  
Applicant.
2. Mr. V. M. Bendre  
Advocate for the  
Respondents.

ORAL JUDGMENT: Date: 14-7-1992  
(Per T. C. Reddy, Member (J))

This is an application filed  
u/s 19 of the Administrative Tribunals Act, 1985  
for direction to the respondents to correct the  
date of birth of the applicant from 9.2.33 to  
9.2.35.

2. The facts that are necessary for

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adjudication of this O.A. in brief may be stated as follows:

The applicant hereinabove is working in the Office of the G.m.Pune Telecom Dist., who is the 5th Respondent. According to the applicant, his correct date of birth is 9-2-35. But his date of birth in his service record is entered as 9.2.33. The applicant has put in representation to the competent authority in the year 1958 to correct his date of birth from 9.2.33 to 9.2.35. It is the case of the applicant that along with his representation he also submitted the birth extract which he had ~~them~~ obtained from the Pune Municipality. The applicant was replied on 8.12.1958 by the competent authority informing the applicant why "the correct date of birth" could not be given by him in the first instance i.e. as and when he joined service. The reply given ~~by~~ <sup>to</sup> the applicant by the competent authority is at page 15 of the application. In the said reply dt. 8.12.1958 there is also an endorsement that the original certificate of SSC and extract of date of birth that the applicant had submitted to the competent authority were also returned to the applicant. It is the case of the applicant that ~~his~~ extract of his date of birth that had been submitted by him along with representation in the year 1958 had been lost in floods in the year 1960. It is also ~~his~~ case that <sup>as</sup> ~~he is not able to~~ obtain another birth extract from the Pune Municipality as all the records of the Pune Municipality <sup>including</sup> ~~regarding~~ date of birth are washed away in the year 1960.

3. The applicant has approached this Tribunal on 30-2-1991 for the reliefs as already indicated above.

4. Counter is filed by the respondents opposing this O.A

5. Today we have heard Mr.S.R.Patwardhan learned counsel for the applicant and Mr.V.M. Bendre for Mr.P.M.Pradhan learned counsel for the respondents.

6. It is needless to point out that in the matter concerned ~~in~~ to alteration of date of birth clinching proof is required to be placed before the Tribunal. Evidence produced before the Tribunal for correction of date of birth must be reliable, convincing, trustworthy and acceptable. In this case no documentary evidence is placed before us to show that the correct date of birth of the applicant is 9.2.35. Hence on this count alone the O.A. of the applicant is liable to be dismissed. But it is the contention of the learned counsel for the applicant that extract of date of birth of the applicant is that had been obtained by him had been submitted along with the representation of to the competent authority in the year 1958 and the extract of the date of birth that had been returned to him along with the reply as referred to above that the same had been lost in floods. Even accepting for arguments sake the contention of the counsel for the applicant, the burden is heavily ~~caused~~ on the applicant that the birth extract that had been submitted

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:- 4 :- ~~by the Applicant to the competent authority~~  
in the year 1958 related to the applicant and  
and the applicant alone. There is no proof  
to show before the Tribunal that the birth  
extract that had been filed before the competent  
authority was that of the applicant and that it  
related to the applicant. So we are unable to  
agree with the contention of the learned counsel  
on the basis of  
~~that~~ ~~new~~ birth extract filed before the competent  
authority along with the representation, his date  
of birth is liable to be changed from ~~9-2-33~~  
to 9-2-35.

7. As already pointed out the competent authority had sent a reply to the applicant on 8.12.58 to the representation that had been made by the applicant for correction of his date of birth. The competent authority had informed the applicant that "for what reasons" the correct date of birth had not given by the applicant ~~when the Applicant joined Service~~ in the first instance. So it is evident from the said reply that the competent authority was not prepared to effect the alteration of the date of birth of the applicant as requested by him. From 1958 to 1991 the applicant does not appear to have approached any forum for redressal of his grievance. There is enormous delay on the part of the applicant in approaching this Tribunal. The applicant is guilty of laches. He is also guilty of negligence and inaction. Hence the applicant is not entitled to the ~~equitable~~ relief of ~~getting altered his date of birth as prayed~~ by him.

8. For the above said reasons the O.A. ~~acting~~ is liable to be dismissed and ~~it is~~ <sup>is</sup> dismissed leaving the parties to bear their own costs.

T. Chandrasekaran  
(T.C.REDDY)  
Member(J)