

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 204/92

Opposed Application No:

DATE OF DECISION 21.1.93

Shri A.K. Bakshi Petitioner

Advocate for the Petitioners

Versus

Deputy Director General Respondent
Geological Survey of India
Nagpur.

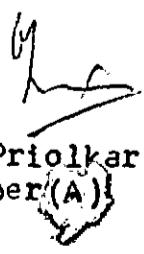
Shri B. Darda Advocate for the Respondent(s)

CORAM:

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

The Hon'ble Shri

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 ?


(M.Y. Priolkar)
Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CAMP AT NAGPUR

(S)

Original Application No. 204/92

Shri A.K. Bakshi,
Chand Bungalow

New Colony,
Nagpur - 440 001.

... Applicant.

V/s.

Deputy Director General
Geological Survey of India
Central Region
New Office Complex
Seminary Hills
Nagpur.

... Respondent.

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

Appearance:

None for the
applicant.

Shri R. Darda, counsel
for the respondent.

ORAL JUDGEMENT

Dated: 21.1.93

¶ Per Shri M.Y.Priolkar, Member (A) ¶

The grievance of the applicant is that though his correct date of birth is 7.11.1936, it has been wrongly entered in the service record as 4.7.1936. Neither the applicant nor his counsel is present today, though he had filed a rejoinder yesterday to the written reply of the respondent dated 14.7.1992. There is also no communication from either of them asking for an adjournment. I, therefore, propose to dispose of the case on merits, after hearing the learned counsel for the respondent and after going through the pleadings of the applicant in the application and the rejoinder.

2. The applicant has produced a copy of his horoscope showing therein the date of birth as 6/7.11.36 and also copies of a birth certificate issued by the Head Master, Govt. High School, Akola

which is dated 26/27.11.1959 showing the date of birth as 7.11.36 and another by the Principal, St. John's High School, Nagpur dated 6.6.1959 showing the date of birth as 7.11.1936.

3. According to the respondents, the date of birth entered in the service record is the one which was declared by the applicant and based on matriculation certificate which was accepted by the respondents. It is seen that the date of birth given in the certificate of the secondary school certificate examination, 1954 issued on 10.6.1954 by the Secretary of Board of Secondary Education, Madhya Pradesh is 4.7.1936. This date of birth namely 4.7.36 was recorded in the service book in the applicant's own hand writing and it is also stated to have been accepted by the applicant on subsequent occasions when he again signed these entries on 16.7.69 and 24.9.86. The applicant's case is that the date of birth was inadvertently entered as 4.7.1936 in the Transfer certificate issued by Head Master, Jain, Higher Secondary school, Sagar, M.P. in 1954 and the error was carried further in the Secondary School Certificate issued by the Board of Secondary Education.

4. Evidently, the applicant was aware since joining his service that the date of birth entered in the service on the basis of the SSC Board certificate was different from the one given in the Horoscope as well as the school certificates of the earlier schools. Although he joined service on 19.5.60, he represented for the first time to the department on 12.9.90 i.e. almost after a period of 30 years for correcting the date of birth as entered

in the service record. The applicant is an educated person, serving as Chemist, and should have known the implications of an incorrect date of birth in the service record. There is no explanation at all as to why he had not represented to the department earlier for correction of the date of birth. The date of birth which has remained unchallenged in the official record for over thirty years cannot be allowed to be changed unless genuine and authentic documentary evidence is produced justifying such correction. In my opinion the horoscope produced as also the certificates produced from the Principals of two earlier schools of the applicant will not constitute such unimpeachable evidence. In my view, the respondents were justified in this case in rejecting the applicant's representation dated 12.9.90 by their letter dated 6.12.1990 stating that there was no valid ground to accept the request for altering his date of birth.

5. This OA is accordingly dismissed as devoid of any merit. It appears, however, that the applicant's father had taken up with the Education Department authorities the question of having his secondary school certificate issued by the Board amended by correcting the alleged mistake regarding date of birth. I would, therefore, only direct the respondents that in case the Board accepts the request of the applicant and issues an amended secondary school certificate showing therein a different date of birth, the respondents may accept such date of birth and correct the date of birth entered in the service record on that basis. The applicant's date of superannuation, naturally, will thereafter be decided in accordance with the amended date of birth.

6. No order as to costs.

(M.Y.PRIOLKAR)
Member(A)

(8)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Review Petition No.39/93 in
Original Application No. 204/92

Shri A.K. Bakshi

... Applicant.

V/s.

Deputy Director General
Geological Survey of India
Central Region
New Office Complex
Seminary Hills
Nagpur - 6.

.. Respondents.

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

Tribunal's order on Review Petition by Circulation

Dated: 15-7-1993

This review petition is directed against my judgement dated 21.1.93 in OA 204/92 and is filed by the applicant in that O.A. on the ground that this OA has been disposed of by the judgement dated 21.1.93, without hearing the applicant's counsel, although there was no default on the part of the applicant. It is stated that this OA was listed on board on 21.1.93 for final hearing at 10.30 A.M. but the matter was heard at 4 P.M. on that day when the applicant's counsel had already left after obtaining an adjournment to 18.3.93.

There is no record to show that the applicant's counsel had appeared at 10.45 A.M. and sought an adjournment which was granted. It is difficult to re-collect at this stage what had actually transpired on that day. But it appears unlikely that if such an adjournment had already been granted at 10.45 A.M. in the morning of 21.1.93, then the case would have been taken up on the same day in the afternoon and the Court Officer and the Stenographer present, apart from the respondent's counsel or myself, would not

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have remembered about the grant of the adjournment.

In any event the applicant has not pointed out any error of fact or of law in the judgement of which a review is sought nor has ~~he~~ produced any additional evidence which was not available on the date when the judgement was delivered.

I do not, therefore, find any sufficient justification to warrant a review of my judgement dated 21.1.93. The judgement was on merits after going through the record including the rejoinder filed by the applicant and after hearing the respondent's counsel and not merely for default in appearance of the applicant. The review petition is therefore rejected.


(M.Y.PRIOLKAR)
MEMBER (A)

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