

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 156/93
T.A. No. ---

198

DATE OF DECISION 26.4.93

Shri Eknath Mahadeorao

Petitioner

Mr. R.G. Chinchghare

Advocate for the Petitioners)

Versus

U.O.I. & Ors.

Respondent

Mr. P. S. Lambat

Advocate for the Respondent(s)

CORAM :

The Hon'ble ~~Ms.~~ Ms. Usha Savara, Member(A)

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?

MGT/PRRND-12 CAT/86-3-12-86-15,000

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 (Ms. Usha Savara)
 M(A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.156/93

Shri Eknath Mahadeorao ,
Pointsman - A, Kalmeshwar,
Central Railway,
Dist. Nagpur. .. Applicant

-versus-

1. Union of India
through
General Manager,
Central Railway,
Bombay V.T.
2. Divisional Railway Manager,
Central Railway,
Nagpur. .. Respondents

Coram: Hon'ble Ms.Usha Savara, Member(A)

Appearances:

1. Shri R.G.Chinchghare,
Advocate for the
Applicant.
2. Mr.P.S.Lambat
Counsel for the
respondents.

JUDGMENT:
(Per Usha Savara, Member(A))

Date: 26.4.93

This application has been filed praying for a direction to the respondents to alter the applicant's date of birth from 18-5-35 to 21-10-40 on the basis of his school leaving certificate.

2. The applicant was appointed as casual labourer in 1957, and regularly appointed as Gangman on 20-1-61. At the time of appointment, his date of birth was recorded as 18-5-35 without any supporting documents. On 14-5-92 he has made a representation

to the Divisional Railway Manager for changing his date of birth, as per school leaving certificate, but his representation has been rejected on the ground that it has been made after 31years of service.

3. Reply has been filed by the respondents. A preliminary objection has been raised that the application is barred by limitation as the cause of action arose on 18-7-62 when he had recorded his date of birth in his service register. The first representation for alteration of date of birth has been made only on 14-5-92 and the same was rejected on 13-10-92. The respondents deny the applicant's statement that he had given his school leaving certificate immediately after his appointment. The respondents rely upon the Railway Board letter dt. 4-8-72(Ex.R-1) by which the Board had decided that such railway servants who had not represented for alteration of recorded date of birth within three years of service, or after completion of the probation period, whichever is earlier, may be given an opportunity to represent against their recorded date of birth upto 31-7-73 as a final chance. It was also clarified that this last date would not apply to illiterate staff. Shri Lambat, learned counsel for the respondents drew my attention to Ex.R-II, and Ex.R.III being the photo-copy of two documents. R.II appears to be extract of service book dated 18-7-62, in which the date of birth has been recorded as 18-5-35. The second/copy of an application form dated 19-12-89 duly signed by the applicant giving his date of birth as 18-5-35.

4. I have heard both the learned counsel. The facts speak for themselves. The date of birth as recorded in the service book at the time of entry in the service was 18-5-35. Till 1989 the applicant himself had been, admittedly, giving that very date on the applications made by him for various purposes. No rejoinder has been filed by the applicant to deny the assertions made in the reply. There is not a word about how the applicant discovered in 1992 that the date of birth recorded by him was wrong. There is no explanation given as to why he kept quiet for so long, if he knew that the date of birth was wrongly recorded. This application has been filed at the fag end of the applicant's service, who is due to retire on 31-5-93. The Principal Bench has held in the case of Dharampal v. U.O.I. (1989) 11 ATC 236 that such a petition is barred under the doctrine of laches and delay, despite the fact that the change was sought on basis of Matriculation certificate. In Sarvesh Prasad vs. U.O.I (1989) 9 ATC 93, the applicant's claim was rejected on the ground that the change was desired at the fag end of service career. It has also been held in a catena of judgments that an entry in the service book about the date of birth renders an element of inviolability to it. In a recent judgment repeated in A.T.R. 1992(1)C.A.T. 550 in the case of N. Selvaraj vs. U.O.I. in which there was a delay of 17 years, without sufficient reasons for the delay, the application was dismissed for this reason alone.

5. In view of the above, the application has no merit, and is accordingly dismissed. No order as to costs.

M

U. Savaral
(USHA SAVARA) 26.4.93
Member(A)