

(5)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 306/93

XXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX

DATE OF DECISION 9.2.1994

Shri S.C.Shinde Petitioner

Shri D.V.Gangal Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Shri N.K.Srinivasan Advocate for the Respondent(s)

COER:

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

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 ? NO
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 ? NO


(M.S.DESHPANDE)

VICE CHAIRMAN

NS/

(6)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 306/93

Shri Shripad Chandradao Shinde

... Applicant

V/S.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande

Appearance

Shri D.V.Gangal
Advocate
for the Applicant

Shri N.K.Srinivasan
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 9.2.1994

(PER: M.S.Deshpande, Vice Chairman)

The question for consideration in this application is very narrow and it is whether the applicant was born on 8.4.1936 as he claims or 8.5.1934, this ^{being} is the date which has been recorded in the service record pursuant to the School Leaving Certificate which the applicant submitted at the time of entry in the service.

2. Shortly prior to his retirement the applicant approached the authorities with a request to change his date of birth from 8.5.1934 to 8.4.1936 and since that relief was ~~not~~ granted, he approached the Tribunal by filing OA. on 1.4.1993. The Tribunal by its order dated 21.1.1993 found that though the applicant had produced a certificate which had been issued by the Tahasildar showing that he was born on 8.4.1936, that certificate had not been considered. Since the relevant material had not been taken into consideration, the Tribunal thought it fit to interfere and gave a direction to the respondents to allow the applicant to adduce further evidence and decide the matter after taking into consideration the Tahasildar's Certificate. The authority

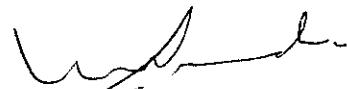
passed an order on 12.3.1993 observing that extract of the Register of birth was carefully examined.

That had been obtained in December, 1963 though the applicant had joined Railway Service on 3.5.1957 and the first representation had been made by the applicant for change in date of birth in October, 1991 after spending about 28 years in service. It was also observed that the applicant was a Graduate in Law. The extract of Birth Register did not give the name of the child because it was not customary to do so since the child is not named till after some time after the birth. The authorities observed that even taking that certificate was authentic, the employee had not taken any action for a long time in spite of having this certificate as indicated above and represented only when the notification for his retirement was issued.

3. Shri Gangal, learned counsel for the applicant urged that directions issued by the Tribunal are not complied with by the authorities and the order would show that there was refusal on the part of the respondents - ^{consider the} Tehasildar's certificate. In reality, however, there is no direction that Tehasildar's certificate should be taken as the sole basis for deciding the matter regarding the applicant's date of birth but an enquiry was contemplated. I was referred to the Affidavit of the applicant's uncle where he had stated that the applicant had stated that the applicant had born on 8.4.1936 but at that time Police Patil of that village had not entered the name in the Birth Register. According to him the applicant's name was Shripad and that was the name which found place in the School Certificate. As already observed, ^{showed that} in the School Leaving Certificate, Shripad was born on 8.5.1934. I was also referred to the applicant's statement dated 3.2.1993 (Ex.A-16) in which he had stated that he had only one elder brother who was born on 9.11.1927

who was working with the Western Railway and that he had no other brother. This statement, however, would not help the applicant because it does not show that the applicant's parents had no male issue on 8.5.1934 and that it was the only entry 8.4.1936 which could have related to the applicant unless material to that effect was produced before the authority concerned, the authority could not be faulted for the view it had taken. Now ^{also} no such material placed to show that the applicant's parents had no other issue and that the date of birth could have related only to the applicant on the basis of Birth Register. There was enough material to justify the ^{decision} denying of the authority and no interference was called for.

4. In the result, the application is dismissed.



(M.S.DESHPANDE)

VICE CHAIRMAN

mrj: