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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 694/94

~~Transfer Application No~~

DATE OF DECISION: 27.6.94

Shri Shripad Chandradeo Shinde Petitioner

In Person Advocate for the Petitioners

Versus

Union of India and others. Respondent

Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri B.S. Hegde, Member (J)

The Hon'ble Shri

1. To be referred to the Reporter or not ? ✓
2. Whether it needs to be circulated to other Benches of the Tribunal ?

[Signature]
(B.S. Hegde)
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 694/94

Shri Shripad Chandradao Shinde
V/s.

... Applicant.

Union of India through
General Manager
Western Railway, Churchgate
Bombay.

Divisional Railway Manager
Western Railway,
Bombay Central.
Bombay.

I.B. Patel
Municipal Uppar Primary
Marathi School, Goregaon West
Bombay.

... Respondents.

CORAM: Hon'ble Shri B.S. Hegde, Member (J)

Appearance:

Applicant in person.

ORAL JUDGEMENT

Dated: 27.6.94

{ Per Shri B.S. Hegde, Member (J) }

Heard Shri S.C. Shinde in person. He has drawn my attention to the order of the respondents dated 18.3.93. The Tribunal by its order dated 21.1.93, while quashing the order dated 10.4.92 directed that the officer concerned shall give a fresh decision in accordance with law taking into account the Tahasildar's certificate. It will be open to the applicant to apply to the officer concerned to hold such enquiry as he considers necessary for ascertaining the correctness of the contents of the certificate and its genuineness. It will be also open to the applicant to lead such evidence in support of his case, as advised. Subject to the decision of the Tribunal, the Chief Personnel Officer by his order dated 12.3.94 considered the matter in its entirety and had given a personal hearing to the applicant on 1.3.93. The speaking order passed by the respondents reads as follows:

" The true copy of an extract from the register of birth produced by the employee has

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been carefully examined. It is seen that the certificate has been obtained in December 1963. The employee joined Railway service on 3.5.1957. The first representation has been made by the employee for change in date of birth based on this certificate in October 1991 only. This means that in spite of the employee having the birth certificate issued by Tahasildar for almost 28 years, no efforts were made by him to represent for change in date of birth. This is all the more surprising considering the educational qualification of the employee. He is not only a Graduate but a graduate in Law also which he completed after joining the service. This clearly shows that he had accepted the date of birth as recorded in the Service Sheet in spite of being in possession of birth certificate giving the date of birth as different from what has been recorded.

Birth certificate normally is taken as base for recording date of birth while entering the School and once date of birth is recorded in the School, the SSC certificate is taken as authentic document because the name of the child is not given in the birth certificate which only indicates " Son or Daughter" of so and so. "


Against which he has filed OA 306/93 which has been disposed of by the Tribunal by its order dated 9.2.94 with the following observations.

The school Leaving Certificate showed that Shripad was born on 8.5.1934. I was also referred to applicant's statement dated 3.2.93 in which he 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 8.5.34 because it was the only entry on 8.4.36 which could have related to the

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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 not 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 of the authority and no interference is called for. In the result, the application is dismissed. "

In the light of the above I see no merit in the case and it is dismissed.


(B.S. Hegde)
Member (J)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

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R.P.NO. 95/94

in

OA.NO. 694/94

Shri Shripad Chandradao Shinde ... Applicant

V/S.

Union of India & Ors. ... Respondents

Coram: Hon'ble Member (J) Shri B.S.Hegde

Tribunal's Order By Circulation

Dated: 1.9.94

(PER: B.S.Hegde, Member (J))

This Review Application was filed by the applicant seeking review of the judgement dated 27.6.1994 in OA.NO. 694/94.

2. I have perused the review application. The brief facts are that the applicant joined the Railway Administration in the year 1957 and he made a representation for change of date of birth only in 1991, after a lapse of many years. He has produced Birth Certificate from the Tahsildar in 1963, according to which his date of birth is 8.5.1934. He is B.A., LL.B. This clearly shows that he accepted the date of birth as recorded in the service sheet on the basis of birth certificate, entry to school is made and the School Leaving Certificate is issued on that basis. However, at the fag end of his service, he produced two certificates, one from Sarpanch, Gram Panchayat, Kadwad dated 16.3.1994 in 1994 stating that the applicant's parents had no male issue on 8.5.1934, secondly, he has produced a certificate dated 29.4.1992 of the Head Mistress, 1.B.Patel Municipal Primary Marathi School, Goregaon, Bombay stating that the applicant's Register No. is 131 dated 30.8.1944 as the father of the applicant was illiterate and as such he had committed a mistake.

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3. The question for consideration is whether there is any substance or merit in the review application or in the alternative whether the new documents furnished by the applicant can be considered as authentic one. Admittedly, those two documents have not been taken as authentic, firstly the delay involved in submitting the aforesaid certificates. If he was in possession of those certificates, he would have produced the certificate regarding date of birth which he did not do so till 1991. The Supreme Court in Union of India vs. Harnam Singh, A.I.R. 1993 SC 1367 has held that a Government servant, after entry into service, acquires the right to continue in service till the age of superannuation or retirement, as fixed by the State in exercise of its powers regulating conditions of service, unless the services are dispensed with on other grounds contained in the relevant service rules after following the procedure prescribed therein. The date of birth entered in the service records of a civil servant is, thus of utmost importance for the reason that the right to continue in service stands decided by its entry in the service record. A Government servant who has declared his age at the initial stage of the employment is, of course, not precluded from making a request later on for correcting his age. It is open to a civil servant to claim correction of his date of birth, if he is in possession of irrefutable proof relating to his date of birth as different from the one earlier recorded, etc. It is also held that it is open to the Government to fix a time limit, in the service rules, after which no application for correction of date of birth of a Government servant can be entertained.


4. The law is well settled that the scope of review application is very limited and the review application is maintainable only if there is an error apparent on the face of the record or some new evidence has come to the notice which was not available even after exercise of due diligence or any other sufficient reason. Review Application cannot be

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~~utilised for re-~~arguing the case traversing the same ground again.

5. After perusing the review application, I find that none of the ingredients referred to above, have been made out to warrant a review of the aforesaid judgement. It is not the case of the applicant that the date of birth mentioned in the service record is not a irrefutable proof.

6. In the circumstances, I am of the opinion, that neither an error on the face of the record has been pointed out nor any new facts have been brought to my notice calling for the review of the judgement. The new documents furnished by the applicant were not authentic and was given on the basis of surmises which cannot be accepted. Accordingly, I do not see any merit in the review application, the same is, therefore, dismissed.


(B.S. HEGDE)
MEMBER (J)

mrj.