

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 348/98

Date of Decision: 17.12.98

Shri Shaikh Hafeejoddin Petitioner/s

Shri S.P. Inamdar. Advocate for the
Petitioner/s.

v/s.


Senior Post Master, Aurangabad Respondent/s
and others.


Shri S.S.Karkera for Advocate for the
Shri P.M.Pradhan. Respondent/s

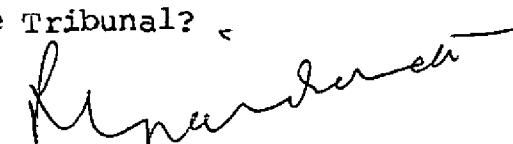
CORAM:

Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

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? 


(R.G. Vaidyanatha)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, BOMBAY: 1

Original Application No. 348/98

Thursday the 17th day of December 1998.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman

Shaikh Hafeejoddin
resident of 6 - B
P & T Colony,
Bhagyanagar,
Aurangabad.

... Applicant.

By Advocate Shri S.P. Inamdar.

V/s.

Senior Post Master
Head Post Office
Aurangabad.

Senior Superintendent of
Post Offices, Aurangabad Dn.
Aurangabad.

Union of India
Post Master General
Aurangabad Region
Aurangabad.

... Respondents.

By Advocate Shri S.S.Karkera for Shri P.M. Pradhan.

O R D E R (ORAL)

¶ Per Shri Justice R.G.Vaidyanatha, Vice Chairman ¶

This is an application seeking a direction for change of date of birth. The respondents have filed reply. After hearing both the counsel I am disposing of this O.A. at the admission stage.

2. The applicant joined the Postal Department as Class IV employee and he is now working as Postman Grade "C". At the time joining the service in 1964 he has given his date of birth as 21.8.1941. According to the applicant the said date of birth is not correct. According to him the correct date of birth is 9.11.1945. The applicant has requested the respondents to change the wrong date of birth. Since no action has been taken up by the respondents the applicant had filed O.A. 169/92. This Tribunal

allowed that O.A. by order dated 3.4.1992 with a direction to the respondents to consider the representation of the applicant for change of date of birth and pass a speaking order. The respondents have now passed an order dated 24.4.1997 rejecting the claim of the applicant for change of date of birth. According to the applicant, as per entry in the school leaving certificate, the correct date of birth i.e. 9.11.1945. The same has to be entered in the service record. He has therefore approached this Tribunal for a direction to the respondents to correct his date of birth from 21.8.1941 to 9.11.1945 and allow the applicant to retire on superannuation on the basis of date of birth as 9.11.1945.

3. The respondents have filed reply opposing the application. They have stated that the applicant while joining the service has given date of birth as 21.8.1941 and the same has been entered in the service record. In spite of the order of the Tribunal in the previous case the applicant did not produce ~~necessary documents~~ and in spite of reminders issued by the competent authority, after four years, he produced a zerox copy of the school leaving certificate. After examining all the materials the Competent Authority rejected the claim of the applicant that no case has ^{been} made out for change of date of birth. It is further stated that this application is barred by limitation, delay and laches.

4. The short point for consideration is whether the applicant has made out any case for change of date of birth from 21.8.1941 to 9.11.1945?

5. In the case of change of date of birth at the fag end of the service, the Tribunal or Court cannot give a direction for change of date of birth for getting extension of service on the basis of the new date of birth which is sought to be changed in the service record. The learned counsel for the respondents placed reliance on number of authorities only on the point that delayed application on the eve of retirement should not be entertained by a Court or Tribunal.

In AIR 1993 SC 1367 (Union of India V/s Harnam Singh) The Supreme Court has observed that the period of limitation is 5 years for seeking change of date of birth as per the amended rules under FR 56 of 1979 scheme. The Supreme Court has clearly observed that in case of delayed claims or stale claims or claims barred by principle of laches, the Court or Tribunal should not interfere.

In 1995 (29) ATC 522 (Union of India and Others V/s. Kantilal Hematram Pandya), The Supreme Court observed that unexplained and inordinate delay in approaching the Court or Tribunal for change of date of birth, in such cases judicial interference should be made sparingly and with circumspection.

The same view is taken by the Principal Bench of this Tribunal in the case of Nanak Ram V/s. Union of India and Ors (1997(1) ATJ 49). There also it is pointed out that when the claim is made after 31 years of joining the service, the claim should not be entertained at the fag end of his service.

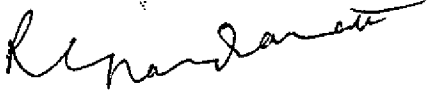
6. In the present case the applicant joined the service in 1964 and for the first time he made an application for change of date of birth in the year 1992, after 28 years. Even ~~then~~ ^{the} Tribunal ~~gave~~ ^{gave} direction in the previous case in 1992 and in spite of number of reminders by the respondents, the applicant took nearly 4 years and odd for producing the documents. He produced a copy of the school leaving certificate obtained in 1997 to support his claim.

7. Apart from delay, the competent authority has also pointed out that there is some discrepancy between the entry in the service record and the school leaving certificate now produced by him. It is also pointed out that the applicant on the date of joining the service and also on two subsequent occasions has verified the entries and attested the service record. As per rules one must apply for change of date of birth within 5 years of joining of service but here the applicant has made ^{the} application first time after 28 years of joining the service.

8. As per the entire service record the date of birth is 21.8.1941 and therefore the date of superannuation will be 31.8.1999. Now the applicant has filed the present application one year earlier seeking for change of date of birth for getting four years more service. In the facts and circumstances and the delay in making the application for the first time and delay in approaching this Tribunal, I feel that this is not a fit case in which the Tribunal should interfere particularly when the application has been filed at the fag end of the service.

9. The learned counsel for the respondents ^{has} also brought to my notice that in 1991, one year prior to the application for change of date of birth, the applicant has given a declaration of details of his family members which is duly signed and attested by the officer, wherein he has given his date of birth as 22.8.1941. For the above reasons I do not find any merit/ in the application.

10. In the result the O.A. is rejected at the admission stage itself. M.P. 593/98 ~~also~~ stands rejected. No order as to costs.


(R.G. Vaidyanatha)
Vice Chairman

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