

IN THE HIGH COURT OF JUD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD

TUES DAY THE ~~16th~~ ^{16th} DAY OF ~~MAY~~ ^{MAY}.
ONE THOUSAND NINE HUNDRED AND EIGHTY SEVEN

: PRESENT :

THE HON'BLE MR. B. N. JAYA SIMHA: VICE-CHAIRMAN
AND
THE HON'BLE MR. D. SURYA RAO: MEMBER.

ORIGINAL APPLICATION NO. 326 of 87

BETWEEN:-

N. H. Roy

.....APPLICANTS.

AND

- 1). Union of India, rep. by
The Secretary, Ministry of Defence
Central Secretariat, New Delhi. - 1.
- 2). Naval Armament,
Supply officer, Naval
Armament Depat,
Visakhapatnam - 530 009

.....RESPONDENTS.

Application under Section 19 of the Administrative
Tribunals Act, 1985, praying that in the circumstances stated
therein the Tribunal will be pleased to direct the respondents
herein to alter his date of birth from 15/7/28
to 15-11-1932 on the basis of the Medical certi-
ficate dated 30-3-1987 produced by the
applicant herein by declaring the impugned
order No. V.A.R. 1114 dt. 20-6-87.

Counsel for the Applicant : Mr. T.Jayant

Counsel for the Respondents : Mr. R.Sriramulu, CGSC

ORDERS OF TRIBUNAL

The applicant was initially appointed as Chowkidar in the Vehicle Depot (Army) at Panagar, West Bengal in 1952 and was transferred to the Naval Armament Depot, Visakhapatnam with effect from 16-2-1954. He is now working as Torpedo Mechanic in the Naval Armament Depot. He claims that he originally belongs to East Pakistan and during the period of his migration to West Bengal in 1950 he lost all his belongings and records. When he entered service in 1952 his date of birth was wrongly entered as 15-7-1928. When he came to know in 1965 that his correct date of birth is 15-11-1932, he made a representation to the Naval Armament Supply Officer, the 2nd Respondent, to make ^{had} requisite corrections in his service register. He also enclosed his horoscope on 7-9-1968 obtained from some of his friends in East Pakistan. His request was rejected by memo. dated 30-3-79 by the Second Respondent informing him that the alteration in date of birth can be made only on the ground of bona fide clerical mistake. The applicant in 1979 requested that his case may be referred to the medical opinion for correct assessment of his age. In 1982 he was informed that his date of birth could be corrected only on producing substantial proof ^{and} support of

his claim. The applicant there-upon produced a T.C. stated to have been issued by Samsi Agricultural High School and sent by his friend from Malda District of East Pakistan, in support of his claim for change of his date of birth. As this was found to be not a genuine document, the applicant's request was rejected and he was also proceeded against by way of disciplinary action. Thereupon the applicant had submitted a representation dated 31-3-1987 enclosing a certificate from ^aPrivate Doctor to the effect that his age as on 30-3-1987 should be 52 or 53 years and requested for alteration of his date of birth as 15-11-1932 on the basis of the medical certificate. This was rejected by the Second Respondent by his letter dated 20-4-1987 whereupon the applicant filed this application stating that on the basis of his medical certificate, he is entitled to correction of his date of birth as 15-11-1932 and consequently he can continue in service upto 30-11-1992.

2. From the facts as narrated above, it will be clear that on more occasions than one the applicant's request for change of his date of birth was rejected. His application was initially rejected in 1979 when he claimed on the basis of his horoscope. Subsequently his applications were again rejected in 1982 and on 12-1-1987. Thereafter he claims that on the basis of ^{he claims that} medical certificate, he has a right to get his date of birth altered. When even this has been rejected, he has filed this application. The main ground on which the

claim ~~ed is a~~ applicant is sought to sustain his decision reported in 1980(2) SLR 513 wherein Supreme Court held that if there are two records with conflicting one another regarding date of birth from inception, the report of medical board which scientifically fixes date of birth of an individual should not be ignored. Obviously the above mentioned decision has no application ^{to} ~~in~~ the present ~~case~~ and there are no conflicting documents in the present case. The date of birth as entered in service register of the applicant was obviously entered ~~into~~ only at his ~~instance~~. He was subsequently stated to have produced various documents to show that the date of birth as entered therein is not correct, viz., the horoscope, transfer certificate, which was proved to be bogus, and finally medical certificate which does not indicate with a certainty what is his actual date of birth. From these documents it cannot be said that there are conflicting records regarding date of birth of the applicant. The above citation has no application in the instant case. On behalf of the applicant, the decision reported in 1971(2) SLR 14 is also relied upon. This decision was laid down when rejecting a representation for correction of date of birth, the Government servant should be given an opportunity to prove true date of birth. This decision did not apply to the facts of the present case as the applicant was given opportunity on many occasions to produce proof of his correct date of birth and failed on all such occasions. Having failed to establish that the date of birth entered in Service record is incorrect or is of a clerical mistake, he has now come forward with this application to compel

the Respondents to refer him to medical board in regard to his date of birth. No rule has been cited before us which gives the applicant any right to claim the said relief nor ^{is} any duty ~~caused~~ caused upon to Respondents to refer the applicant to the medical board. Note 5 under FR 56 says that the alteration of date of birth can be made if it is clearly established that a ^{has} ~~is~~ genuine and bonafide mistake ^{in regard to the date of birth} ~~was~~ occurred. The applicant has not been able to prove as to how a genuine bonafide mistake occurred in the instant case. We therefore see no reason to admit this application and accordingly dismiss the same at the admission stage itself.

B.N.Jayasimha

(B.N.JAYASIMHA)
Vice Chairman

D.Surya Rao

(D.SURYA RAO)
Member(J)

Dated: 5th May, 1987.