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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH, AP HYDERABAD.

O.A.No.

422/87

DATE OF DECISION: ---

8/24/90

T.A.No.

Petitioner.

Advocate for the
petitioner(s)

Versus

Respondent.

Advocate for the
Respondent(s)

CORAM:

THE HON'BLE MR. B. N. Jayaraman, Hvc.

THE HON'BLE MR. D. Srinivas Rao, Hm(3)

1. Whether Reporters of local papers may be allowed to see the Judgment ? ~
2. To be referred to the Reporter or not ? ~
3. Whether their Lordships wish to see the fair copy of the Judgment ? ~
4. Whether it needs to be circulated to other Benches of the Tribunals ? ~
5. Remarks of Vice Chairman on columns 1, 2, 4 (To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO. 422 of 1987

Date of Order:08/02/1990

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...Applicant

Versus

The Chief Personnel Officer
(Pension Adalat)
South Central Railway,
Secunderabad, and 2 others

..Respondents

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FOR APPLICANT: MR.P.KRISHNA REDDY: ADVOCATE

FOR RESPONDENTS:MR.N.R.DEVARAJ: STANDING COUNSEL FOR RAILWAYS

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C O R A M:

HON'BLE SHRI B.N.JAYASIMHA: VICE CHAIRMAN

HON'BLE SHRI D.SURYA RAO: MEMBER (JUDICIAL)

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(Judgment delivered by Shri B.N.Jayasimha, Vice Chairman)

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1. This is an application from a retired Railway employee questioning the order of premature retirement from 25-9-1984.

2. The applicant states that he joined the Railways in the year 1950. On the afternoon of 24-9-84, without any notice whatsoever, the applicant was stopped from service. At the time of his retirement he was working as ^a Highly skilled Grade-I Fitter and he was working in ^{When} Loco Shed, Lalaguda. ~~He~~ made enquiry, he was informed that according to the administration, his date of birth was noted as 28-10-1922 and he was due to retire on 31-10-1980.

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The Administration by mistake had allowed the applicant to continue upto 24-9-1984. The applicant states that the date of birth mentioned by the administration is not correct and according to the Railways, the date of birth of the applicant is 28-10-1928 and not 1922. As the applicant was stopped without any notice whatsoever, he had no opportunity to explain to the respondents the correct facts. Under normal circumstances, the applicant was due to retire on 31-10-1986, but he was made to retire prematurely on 25-9-1984.

3. The applicant states that even after retiring him on 25-9-1984, the respondents did not pay the retirement benefits to him. After his retirement, he filed a representation/petition before the General Manager, South Central Railway, Secunderabad, bringing to his notice the fact that stoppage of the applicant from duty on 24-9-1984 amounts to premature retirement. He sent ^a number of reminders, but, there has been no response. Subsequently, he was informed that his case was referred to the Railway Board and that the respondents are awaiting instructions. The applicant had waited for 2½ years, but, no orders have been passed. Hence, he has filed this application.

4. The respondents in their counter state that the applicant's date of birth should have been correctly recorded as 12-10-1922, but was wrongly recorded as 12-10-1928 in his service records. This error was noticed on 24-9-1984 when the Personnel File and Service Register were taken up to initiate advance action in accordance with the time schedule laid-down for quick processing of settlement cases in terms of instructions contained in

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Railway Board's letter dated 8-4-1976 circulated in Chief Personnel Officer's serial Circular no. 73/76 dated 23-4-1976, since the applicant was due to retire from service from 31-10-1986 according to the wrong date of birth recorded in the Staff Disposition Register. It is stated that after the retirement of the applicant on 25-9-1984, he was paid Provident Fund accumulations and Pension with effect from 25-9-1984 and a total sum of Rs.11,653-58 ps was kept in deposit as the period of over-stayal from 1-11-1980 to 25-9-84 requires the sanction of the Railway Board for treating the period as re-employment. It is stated that sanction of the Railway Board is being sought for treating the period as re-employment. Therefore, the said sum of Rs.11,653-58 ps was kept in deposit to off-set any amount to be recovered on account of over-stayal in service.

5. We have heard Shri P.Krishna Reddy, learned counsel for the applicant and Shri N.R.Devaraj, Addl.Standing Counsel for the Railways.

6. From the facts narrated above, it is clear that the applicant's date of birth has been changed from 28-10-28 in his service record to 12-10-22 without issue of any notice to him. It is well settled by the Supreme Court in State of Orissa Vs. Binapani Dei (AIR 1967 SC 1249) that change of date of birth without notice is illegal. In these circumstances, we have to allow the application with a direction to the respondents to pay the amounts due to the applicant viz., Rs.11,653-58 ps kept in deposit together with interest at 12% per annum.

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The applicant would be deemed to be in service upto 24-9-1984 and he would be eligible for pension with effect from 25-9-1984. The respondents are further directed to calculate the pension due to the applicant.

8. In the result, the application is allowed with the above directions. No costs.

(Dictated in open court)

B.N. Jayasimha
(B.N. JAYASIMHA)
VICE CHAIRMAN

D. Surya Rao
(D. SURYA RAO)
MEMBER (JUDL.)

DT. 8th February, 1990

A. D. Reddy
DEPUTY REGISTRAR (J)

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TO:...

1. The Chief Personnel officer, (Pension Adalat) south central railway, Secunderabad.
2. The Divisional Railway Manager (MG) south central Railway, Hyderabad.
3. The Senior Divisional Mechanical Engineer, Meter Gauge Division, South central railway, Hyderabad.
4. One copy to Mr. P. Krishna Reddy, Advocate, 3-5-899, Himayatnagar, Hyderabad.
5. One copy to Mr. N.R. Devaraj, SC for Railways., CAT, Hyderabad.
6. One spare copy;

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