

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH, HYDERABAD.  
NExWxExExxx

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28/7/88  
URGENT

O.A. No. 719  
RxRxNo.

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DATE OF DECISION 1.7.1988

Mr. M. Murtuza Ali

Petitioner

Mr. K. S. R. Anjaneyulu

Advocate for the Petitioner(s)

Versus

The Secretary, Central Board of  
Excise and Customs, New Delhi and  
three others. Respondent

Mr. N. R. Devaraj, Addl. S. C. C. G.  
Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K. Madhava Reddy, Chairman.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

(54)

ORIGINAL APPLICATION NO. 719 of 1987

This application for correction of date of birth is by a person who entered service as L.D.C in the year 1954. His date of birth was entered as 2.4.1935 in the Service Register. In the year 1984 he submitted an application for correction of that entry as 24.8.1936 on the strength and basis of an extract from the Births and Deaths Register maintained by Mylavaram Gram Panchayat under the Births, Deaths & Marriages Registration Act, 1886. That claim was considered and rejected by the Collector and the same was communicated to the applicant by the Assistant Collector, Central Excise, Rajahmundry vide Lr.No.II/39/1/85 E.3 dated 4/1985.

Aggrieved by that order, he made a further representation to the Secretary, Central Excise Board. The Assistant Collector, Central Excise, Rajahmundry by his letter dated 23.4.1987 informed the applicant as follows :-

" that the Ministry of Finance in their letter F.No. A21016/3/86 Ad.II(B) dated 31.3.1987 have stated that your representation for change of date of birth has been carefully considered but it has not been found possible to agree to your request for changing the date of birth from 2.4.1935 to 24.8.1936. "

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It would be seen that while his service Register based on the school record showed his date of birth as 2.4.1935, the applicant's claim for correction of the same is based upon an extract of a register maintained under Births, Deaths & Marriages Registration Act, 1886. Under Section 25 of the said Act, an entry in this Register may be approved by a certified extract. The respondents, while admitting such an application along with the birth extract was filed, refused to act on it on the ground that both the present entry in the service record as well as the school record is based on the statement of the grandfather of the applicant. However why the entry in the Births and Deaths Register could not be acted upon is not categorically stated nor do the respondents state that they doubt the genuineness of the entry in the Births Register. It is nowhere asserted that this is not a correct extract. In the absence of such an assertion, there is no reason to doubt the entry in the Register produced by the applicant. Section 25 of the Act enables a person to prove an entry in the Births & Deaths Register by producing an extract. It is not obligatory for a court or judicial

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authority to summon the original. The extract shows that Mohammed Murtuza Ali (the applicant herein) was born on 24.8.1936 and his birth was registered on 26.8.1936 i.e., two days later of his birth by the Village Panchayat, Mylavaram, Krishna District on the intimation given by Abdul Aziz, grandfather of the applicant. The entry shows that this child was born to, Abdul Bashad, wife of Hafeezunnisa. Merely because at the time of admitting the boy in a school, a different date of birth is given, this earliest entry of date of birth cannot be doubted ~~for now~~ immediately after the birth of a child, neither the parents nor any one would be interested in getting a wrong date registered. The person making the entry in the birth register would <sup>not</sup> be interested in putting a date one year and four months anterior to the actual date of reporting of the birth. Merely because this extract was not obtained immediately, its authenticity cannot be doubted. It is common knowledge that no one secures a copy of such an entry unless it is required for some specific purpose later on. At the time of admission to the school, it mattered little in those days whether the year of birth was 1935 or 1936. Now when this question arose

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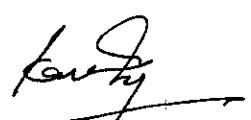
as to whether the applicant was born on 24.8.1936 as evidenced by the entry in the Births and Deaths Register maintained under the enactment or on 2.4.1935 as entered in the school register the one which is earliest in point of time and which is made within two days of the birth of the child should certainly be given more weight than the entry which is made much later. The date of birth which was given at the time of admission into the school was naturally carried forward in the subsequent registers and entered in the Matriculation Certificate. The entry in the Matriculation Certificate cannot, therefore, have greater evidentiary value than the entry in the Births and Deaths Register.

2. Mr. N. R. Devaraj, learned Addl. Standing Counsel for Central Government, however, contended that if the date of birth now claimed is accepted on the day when the applicant actually entered service, i.e., on 6.3.1954, he would have been only 17 years, 6 months and 18 days old and would have been ineligible for appointment to any post under the Central Government. It is true that a person below 18 years of age is not eligible to be appointed. But it is equally true that in a number of cases persons

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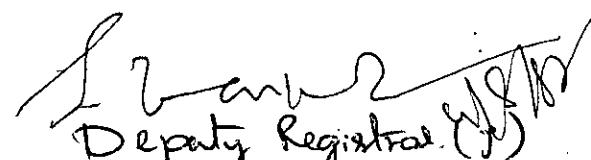
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below 18 years of age have in fact been appointed and precisely for that reason Official Memorandums have been issued to ignore the service rendered before attaining the age of 18 years for the purpose of pension and other benefits. The applicant herein was almost eighteen when he was appointed. That fact by itself is not sufficient to ignore his claim when for correction of date of birth is supported by an authentic extract of Births and Deaths Register. It is also significant to note that this claim is not made just on the eve of his retirement. As per the entry in the Service Register, the applicant would attain the age of superannuation only in 1993. He made the application for correction nearly a decade earlier to the date of his superannuation. This application fully supported by the extract of the Births & Deaths Register is, therefore, allowed. The necessary correction shall be carried out in the Service Register accordingly. There will be no order as to costs.

  
( K. Madhava Reddy )  
Chairman

Dated 1st day of July 1988

  
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S. Venkateswaran  
Deputy Registrar (P)