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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

on DAY THE thirteenth DAY OF June
ONE THOUSAND NINE HUNDRED AND EIGHTY ~~8~~/EIGHT

;PRESENT;

~~THE HON'BLE MR. B.N. JAYA SINHA, VICE CHAIRMAN~~

~~AND~~
THE HON'BLE MR. D. SURYA RAO: MEMBER. (Juddh.)

ORIGINAL APPLICATION NO. 402/87.

BETWEEN:-

Mahd. Nasseruddin.

.....Applicant

AND

- 1) - senior superintendent of post office,
Secunderabad Division, Secunderabad.
- 2) - sub-post master, L.S.G.
Bolesum (P.O.) Secunderabad. A.P.

.....Respondents.

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ORIGINAL APPLICATION NO. 402 of 1987

The applicant herein was retired from service as Postman on the basis of his date of birth 1.7.1929 as entered in the Service Register. The applicant states that the entry in the Service Register was wrongly made and his date of birth should have been 27.9.1934. The applicant joined service as a Class IV employee on 26.3.1948 and at that time he had produced a certificate from the school showing his date of birth as 27.9.1934. The applicant states that for reasons best known to the respondents ^{they} have wrongly entered his date of birth as 1.7.1929. On 7.1.1987 the applicant was informed that he would retire from service on 30.6.1987 instead of 27.9.1992. The applicant tried to obtain age certificate from the school where he studied and also made enquiries with Mandal Revenue Officer, Rajapet. Both of them informed the applicant that no record as to his date of birth is available.

The Surpanch of Begumpet, however, issued a certificate showing that the applicant was born on 27th September 1934.

The applicant thereupon made a representation dated 14.4.1987 seeking correction of his date of birth in the Service Register as 27.9.1934. He was informed by the Senior Superintendent of

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Post Offices, Secunderabad Division, Secunderabad

(1st respondent) by his order dated 15.6.1987 stating that his correct date of birth was 1.7.1929 and as such he would retire from service on 30.6.1987. It is further contended that the order in question is illegal and his age certificate filed at the time of his joining the service if verified would establish that his correct date of birth is 27.9.1934 and not 1.7.1929 as asserted by the respondents. It is also contended that the applicant is a workman and is entitled to retire from service at the age of 60 years and not at the age of 58 years.

2. On behalf of the respondents, a counter has been filed denying the date of birth of the applicant as 27.9.1934. It is denied that the applicant has any proof of having produced the school certificate at the time of joining the service showing his date of birth as 27.9.1934. It is further stated that the entry in the Service Register viz; that his date of birth was 1.7.1929 was duly admitted and attested by the applicant. It is also stated that in all other service records, the date of birth of the applicant was noted as 1.7.1929. It is also stated that when particulars of family members were furnished by him on 22.8.1978, he

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showed his date of birth as 1.7.1929. It is on this ground that the respondents had rejected the claim of the applicant for correction of his date of birth. With regard to the claim of the applicant ~~as regards~~ ^{that} the age of retirement ~~as~~ ^{is} 60 years on the ground that the applicant is a workman, it is contended that under F. R. 56(a), the applicant is liable to retire attaining the age of 58 years.

3. Heard the learned counsel for the applicant and Sri. G. Parmeshwar Rao, counsel representing the Standing Counsel for Central Government.

4. The short point for consideration is whether the applicant has produced any satisfactory proof before the respondents that his date of birth is 27.9.1934. The applicant has no doubt stated that he had produced the school certificate to that effect. ^{But} ~~It is~~ merely on the basis of ~~some~~ ^{his own} testimony or statement and not on the basis of any documentary evidence, ^{his claim cannot be conceded.}

The learned counsel for the applicant seeks to contend that that it is the responsibility of the respondents to produce the record showing that the applicant did not produce any school certificate at the time of joining service. This contention is wholly untenable. The burden of proof is on the applicant to establish that his correct date of birth is 27.9.1934,

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and not on the respondents to prove that it is not so.

As held by the 1st respondent by his order dated 15.6.1987

that the applicant had furnished his date of birth as 1.7.1929

and ^{it was} on his own statement, ^{that} his date of birth was entered in the

S.R. as 1.7.1929. He cannot now go back on his own statement

and say that his date of birth is 27.9.1934. I, therefore,

hold that the impugned order dated 15.6.1987 rejecting the

request of the applicant for correction of date of birth of the

applicant does not suffer from any infirmity.

5. The contention of the applicant that he is a workman under the Industrial Disputes Act and is entitled to continue in service upto the age of 60 years is also equally untenable. Admittedly, the applicant was promoted to the post of Postman from Class IV post which is a superior post and his services are governed under F.R. 56(a) and as such an employee has to retire at the age of 58 years and he cannot continue till the age of 60 years.

6. In any event, the applicant never raised such a contention before the 1st respondent when claiming correction of his date of birth. It is now not open for him

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for the first time to raise such a contention.

I, therefore, see no merit in the application and the same is accordingly dismissed. No order as to costs.

Dictated in the open court.

D. Surya Rao

(D. Surya Rao)
Member (J)

Dated 13th day of June 1988.

Rn
DR

S. Venkatesh
Deputy Registrar
21/6/88

mdj*

