

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

N~~EW~~W~~XX~~D~~EX~~H~~K~~ HYDERABADO.A. No. 235 of 1989 198  
TAXXN.

## DATE OF DECISION

M.M.Cherian Petitioner

V.Venkateswara Rao Advocate for the Petitioner(s)

Versus

Union of India rep. by Secretary, Respondent  
Min. of Steel & Mines, and two others

N.Phaskara Rao, Addl. CGSC Advocate for the Respondent(s)

## CORAM :

The Hon'ble Mr. B.N.Jayasimha, Vice Chairman

The Hon'ble Mr. J.Narasimha Murthy, Member (Judl.)

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*

MGIPRRND-12 CAT/86-3-12-86-15,000

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ORIGINAL APPLICATION NO. 235/1989

(JUDGMENT OF THE TRIBUNAL DELIVERED BY HON'BLE VICE-  
CHAIRMAN, SHRI B.N. JAYASIMHA)

the Order No.  
The applicant herein challenges/1285/A-20012/1/46/  
71/16A dated 6-2-1989 issued by the third respondent  
(the Deputy Director General, Geological Survey of India,  
Southern Regional Office, Hyderabad) rejecting the  
applicant's representation dated 20-12-1988 for  
correction of date of birth.

2. The applicant states that he joined as contingent worker of Class IV in Indian Bureau of Mines, Madhya Pradesh in the year 1956. His services were regularised as Drill Operator in 1960. In 1967, the Exploration Wing of Indian Bureau of Mines was merged with the Geological Survey of India and on such merger, the applicant was also transferred to the G.S.I. with his post. When he joined service, his date of birth was recorded as 6-5-1931 even though he was borne on 19-10-1107 (Malayalam Calender) corresponding to 1-6-1932 of the English Calender. The applicant states that he declared his date of birth to the Indian Bureau of Mines as 19-10-1107 in Kollavarsham (i.e. Malayalam Era). The authorities made an error while converting the said date to Christian Era and wrongly recorded his date of birth as 6-5-1931. The correct date of birth equivalent to the above date is 1-6-1932, Christian Era. All along, the application was under the impression

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- page two -

that his date of birth was correctly recorded in the Service Register. Subsequently, the applicant, after obtaining a copy of the Admission Register of P.M.V. High School, Peringara on 27-2-1963, the ~~xxx~~ applicant found that his date of birth ~~xx~~ was entered in the said register ~~in~~ both in Malayalam and Christian Calenders as 19-10-1107 (Malayalam Era) and 1-6-1932 (Christian Era). Though the applicant was in possession of the said document, he could not entertain any doubt and ~~xx~~ cross-check the date of birth as entered in his Service Register. The applicant also was given to understand that no representation for correction of date of birth would be entertained ~~xx~~ after completion of 5 years of service in any organisation. He came to know that his date of birth was wrongly entered when he was informed by the authorities that he is due to retire on 31-5-1989, ~~x~~ somewhere in the month of April, 1988. Immediately thereafter, he made a representation to the authorities for carrying out necessary correction in the service register enclosing therewith a copy of the admission register of the High School as proof of his correct date of birth, 1-6-1932. The third respondent received the same and addressed a letter to the second respondent on 10-5-1988 seeking permission for correction of date of birth. The applicant made another representation on 20-12-1988 and the Respondent ~~No.3~~ informed the applicant that he could not accept the correction, by a letter dated 6-2-1983. Hence this application.

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- page three -

3. In the counter filed on behalf of the respondents, it is stated that as per the procedure laid down, the date of birth of the applicant was recorded as 6-5-1931 on the first page of the service register based on the declaration and documentary evidence made ~~by~~ available by the applicant, which was duly accepted by the competent authority at the time of his first appointment as Drill Operator in Indian Bureau of Mines w.e.f. 14-1-1960. The applicant had signed the service book on 18-1-1960 in token of having confirmed the entries made on the first page of the service book including the date of birth. The service book does not indicate ~~any~~ any reference about the date of birth in any other Era except the one recorded by Christian Era. There is no mention in the service book that the applicant had declared his date of birth as 19-10-1107 according to the Malayalam Era. There is no evidence on record to show that the applicant had in fact declared his date of birth in the Malayalam Era and as such the question of the Department committing an error in conversion of the date of birth into Christian Era does not arises. It is for these reasons that the respondents oppose this application.

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not arise. Even according to the applicant himself, he obtained the copy of the Admission Register of the High School indicating his date of birth in Kollavarsham, Malayamal Era and the equivalent date in Christian Era issued by the P.M.V. High School, Paringara, Tiruvalla on 21-2-1963. The applicant who claims to have declared his date of birth in Kollavarsham at the time of joining Indian Bureau of Mines on 14-1-1960 as he was not sure of equivalent of the same by Christian Era should have submitted the said documentary evidence to the department for necessary action immediately in 1963 when the admission certificate is supposed to have been issued, as per the date shown on it, on 21-2-1963. The applicant signed the service register on 18-1-1960 duly acknowledging the entries made on the first page of the service book which includes the date of birth of the applicant also. The gradation lists in various cadres, viz., Drill Operator, Junior Technical Assistant and Senior Technical Assistant (Drilling) which the applicant held during his service of more than 29 years, were published periodically indicating his date of birth as 6-5-1931. The applicant who had been in possession of the school record which indicates his date of birth in Kollavarsham and Christian Era ~~maxx~~ from 21-2-1963 onwards, thus, had many opportunities to represent against the error, if any, in his date of birth and

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- page five -

request for correction. The applicant has not done so for more than 2½ decades. The applicant himself contradicts by saying at one point that he was not aware of his date of birth till 1988, while at another point, he states that he did not represent against the error due to the advice given by the authorities that no representation for correcting the date of birth would be entertained after 5 years of service. It is only in ~~xxxxxx~~, 1988 November six months i.e. ~~xxxxxxxxxx~~ about ~~xxxxxx~~ before his retirement, that he came up with a representation that he had declared his date of birth in Kollavarsham at the time of his appointment and that the department had committed an error in converting the same into the Christian Era. The applicant raised this issue just before his retirement with the sole intention of depriving the Department to conduct proper enquiry and thereby gain service by one more year. It is stated that the application is hopelessly time-barred. It is for these reasons that the respondents oppose this application.

4. We have heard the learned counsel for the applicant and Shri B. N. Bhaskara Rao, adol.S.C. for Central Government. Admittedly, the applicant was in possession of the school record as early as in 1963 and no explanation has been given by him as to why he did not get his date of birth corrected in the service book within a reasonable time from such possession. He does not dispute of his having signed

the service book on 18.1.1960 acknowledging the particulars mentioned therein which includes the entry in regard to his date of birth as ..... on "B.N.Gupta Vs. Union of India and others (ATR' 1988(2) CAT 126)" wherein the Calcutta Bench of the Central Administrative Tribunal had held that "one of the conditions on which relevant orders allow alteration of date of birth recorded in the service is that the entry must be due to genuine bonafide mistake and where there is no mistake and the applicant saw the entry on several occasions over nearly 25 years and made no protest, a request for change of date of birth should not be considered". Again in "H.K.Walia Vs. Union of India (ATR 1988(2) CAT 606)", the Principal Bench held in the circumstances of the case that "the applicant is estopped from challenging the recorded date of birth which he had himself declared and continuously accepted for more than 30 years. Allowing the applicant to claim the benefit of the revised date of birth to our mind will encourage and embolden unscrupulous elements to declare wrong dates of birth at various stages of their career for reaping undue benefits. No bonafide mistake, no clerical error, no circumstances beyond applicant's control could be identified by us in this case as so as to allow him to get the benefit of the revised and correct date of birth at this stage." In "V.Surya Raman Vs.

Accountant General, A.P. and another (1988(6) ATC 457)", this Bench of the Tribunal held that "an application made shortly before retirement can be validly rejected". The learned counsel for the applicant relies on "Hiralal Vs. Union of India (ATR 1987(1) CAT 414)", wherein it was held that Note 5 to FR 56 cannot take away the right of an employee to see correction of his date of birth. According to the ratio in Hiralal's case, an employee has a right to seek change of date of birth but it does not lay down that he can claim change of date of birth without sufficient cause and without explaining the delay in seeking such a change. Admittedly, the applicant was aware of his correct date of birth as early as 1963 when he obtained extract from the admission register on 21.2.1963. The ratio of decisions referred to by the learned counsel for the ~~app~~ respondents apply in all its aspect to this case. We have, therefore, to reject this application as without merit.

5. The learned counsel for the applicant also urges that the Geological Survey of India is an industry and the applicant is entitled to retire at the age of 60 years. He sought to rely on a judgment dated 13.8.1985 delivered by the Andhra Pradesh High Court in Writ Appeal No.295 of 1978 wherein it was held that on application of dominant tests the Geological Survey of India is an industry. He also relies

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upon the ratio of decision in "Bhopal Singh Vs. Union of India and others (1977 AISLJ 518)" wherein the scope of FR 56(b) was considered. We do not think that the learned counsel for the applicant can raise this point for adjudication across the bar since neither in the relief sought for in his application nor in the impugned order there is any mention in regard to his entitlement to retire at the age of 60 years. The relief sought for by the applicant in this application is "to call for the records pertaining to the proceedings No.1285/A-20012/1/46/71/16A dated 6.2.1989 issued by the Deputy Director General, Geological Survey of India, Southern Regional Office, Hyderabad, and quash the same as illegal, arbitrary and unconstitutional, by directing the respondents to alter the date of birth of the applicant in the service register from 6.5.1931 to 1.6.1932 and consequently holding that the applicant is entitled to continue in service till he attains the age of superannuation on the basis of his correct date of birth i.e., 1.6.1932 with all consequential benefits, such as salary and allowances, promotion etc.,". The proceedings referred to in the prayer viz., proceedings 1285/A-20012/1/46/71/16A is in regard to the rejection of the request of the applicant for change of his date of birth. Rule 10 of the Central Administrative Tribunal (Procedure) Rules 1987 in regard to plural remedies lays down that "an application shall be based on a single cause of action and may seek one or more reliefs provided ~~xxxxx~~ that

they are consequential to one another". The point now raised neither arises upon the impugned order nor is it a consequential one to the relief asked for in the application. We, therefore, decline to consider this point in this application.

6. In the result, the application fails and is dismissed accordingly. There will be no order as to costs.

*B.N.Jayashimha*

(B.N.JAYASIMHA)  
Vice Chairman

*Murthy*

(J.NARASIMHA MURTHY)  
Member(Judl.)

Dated: 5<sup>th</sup> June  
1989.

*Tel 716109*  
*Dept. of Justice (A)*

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