

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~NEW DELHI~~ Hyderabad

O.A. No. 397 of 1989

K. Seetharamaiah Applicant(s)

Versus

Secretary, Min. of Finance, CBCE, Respondent(s)
New Delhi and another

Sr. No.	Date	Orders
		<p style="text-align: center;"><u>17.5.1989</u></p> <p>A.V. Pardha Saradhi, Counsel for the applicant - Present G. Parameswara Rao representing P. Ramakrishna Raju, Sr. CGSC. - Present</p> <p>Post before the Division Bench for admission as in my view the matter is covered by a decision of the Division Bench of this Tribunal.</p> <p style="text-align: right;">DSR M(J) MBR</p> <p style="text-align: center;"><u>30-5-89</u></p> <p>Counsel for the applicant called absent. Post on Tuesday 6-6-1989.</p> <p style="text-align: right;">DSR M(J) MBR</p> <p style="text-align: right;">DSR M(A)</p> <p>1989 Dismissed (no costs) vide separate order delivered today</p>

POT J

JMM

O.A.No. 397 of 1989

(Judgment of the Bench as per Hon.Mr. B.N. Jayasimha, VC)

This is an application ~~xxxx~~ U/s 19 of the Administrative Tribunals Act, 1985, filed by the applicant, a Superintendent in Central Excise, seeking change of date of birth.

2. The applicant states that he joined as Supervisor in the Central Excise department on 7.4.1956. At the time of entry in service, his date of birth was noted as 4.5.1931 as recorded in all the educational records. The same date has been continuing in the official records. He states that he had no formal education till he joined in the II Form in the middle school at Chebrolu in Guntur district. At that time, the date of birth was recorded as 4.5.1931 for reasons unknown to the applicant. The applicant was not aware of the correct date of birth and he also did not suspect that the hitherto recorded date of birth was not the correct one. The elder brother of the applicant, who is an agriculturist and a native of Chebrolu Mandal, came to Hyderabad on the occasion of house warming ceremony on 25.2.1989. At that ceremony, the applicant came to know from his brother that his correct date of birth was 31.12.1931, and not 4.5.1931. The brother of the applicant informed him that he came to know of the latter's date of birth from

a certified
~~xx~~/extract found in the old papers kept by his late father.

The said certified extract was obtained on 30.4.1953. The applicant states that his father died in April 1964, and his mother in May, 1967. It was only on 25.2.1989 when his elder brother came to know of the impending retirement of the applicant that he became aware of his correct date of birth. The applicant submitted a representation to respondent-2 (Collector, Central Excise) on 9.3.1989 for correction of his date of birth, but there has been no reply. The applicant states that the Government of India's notification in its OM No. 19017/7/79-Estt.A dated 30.11.1979 was held to be inapplicable to government servants who entered service prior to 15.12.1979, as held in HIRALAL v. UNION OF INDIA.

2. We have heard the learned counsel for the applicant, and Shri Parameswara Rao, learned counsel for the respondents.

3. The applicant had made a representation on 9.3.1989 to the respondents, and U/s 21 of the A.T. Act, six months have to elapse before an application is filed. This application is filed only on 8.9.1988, and therefore, this application is premature and hence liable to be dismissed on that ground. Even on merits, we do not think that the applicant's case deserves any consideration.

pg
2

/3/

According to the applicant himself, the birth extract was obtained on 30.4.1953. The applicant being a Superintendent in Central Excise could not be unaware of his correct date of birth. In 1988 (6) ATC 457 (SURYANARAYANA v. ACCOUNTANT GENERAL, A.P.), we have held that belated applications on the eve of retirement cannot be considered, and the ratio of HIRALAL's case could not be applied to such cases. Even though the birth extract dated 30.4.1953 was available, the applicant was not diligent in getting his date of birth corrected, but made representation only a few months before he is due to retire.

4. In the result, the application is liable to be dismissed on the ground that it is ^{belated} ~~premature~~ and also applying the decision in SURYANARAYANA's case. We accordingly dismiss the application. There will be no order as to costs.

B.N. Jayasimha
(B.N. JAYASIMHA)
V.C.

M.S.
(J. NARASIMHA MURTHY)
M(J)

Dated 19th June, 1989.

dms.

S. Varadar
D.R. (5) 24/6/89
Dy. Registrar (C)

85
2