

(40)

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 498/89.
-T.A.No--

Date of Decision : 2nd April (992)

<u>K. Chenchaiah</u>	Petitioner.
<u>Shri C. Suryanarayana</u>	Advocate for the petitioner (s)
Versus	
<u>The Sub-Divisional Inspector, Posts, Repaile-522265 & 2 others</u>	Respondent.
<u>Shri N. Bhaskara Rao, Addl. CGSC</u>	Advocate for the Respondent (s)

CORAM :

THE HON'BLE MR. R. Balasubramanian : Member(A)

THE HON'BLE MR. T. Chandrasekhar Reddy : Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *YB*
2. To be referred to the Reporter or not ? *YB*
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 Tribunal ? *YB*
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)

B
HRBS
M(A).

T. C. R.
HTCR
M(J).

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.498/89.

Date of Judgment 2-4-92.

K.Chenchaiah

.. Applicant

Vs.

1. The Sub-Divisional Inspector, Posts, Repalle-522265.
2. The Supdt. of Post Offices, Tenali-522201.
3. The Director-General, Posts (representing Union of India), New Delhi-110001. .. Respondents

Counsel for the Applicant : Shri C.Suryanarayana

Counsel for the Respondents : Shri N.Bhaskara Rao, Addl. CGSC

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri T.Chandrasekhar Reddy : Member(J)

[Judgment as per Hon'ble Shri R.Balasubramanian,
Member(A)]

This application has been filed by Shri K.Chenchaiah under section 19 of the Administrative Tribunals Act, 1985 against the Sub-Divisional Inspector, Posts, Repalle-522265 & 2 others, seeking a direction to quash the order No.EDMC/DA/Idupalli/89 dt. 30.1.89 issued by the Sub-Divisional Inspector, Posts, Repalle and to declare that his date of birth is 5.6.32 on the basis of the school record submitted by him thereby stopping his discharge from service with effect from 14.7.89.

2. The applicant whose date of birth is claimed to be 5.6.32 had studied upto 5th class in the S.P.S.Elementary School, Edupalli. At the time of his appointment as EDMC/DA of Edupalli B.O. he had appeared for the test for promotion as Class IV sometime in 1959. At that time the applicant had mentioned his date of birth as 5.6.32. But the

Sub-Divisional Inspector, Posts, Ponnur informed the applicant vide his letter dt. 4.8.59 raising the question that while the applicant had claimed his date of birth ~~to be~~ ^{as} 5.6.32, the Branch Postmaster (B.P.M. for short) in his report had stated that the applicant was 35 years. Hence, to determine the age of the applicant correctly he was asked to obtain the extract from the register of births and deaths or school certificate and get it signed by his B.P.M. and send the same. The applicant submitted a letter on 14.3.86 after obtaining the B.P.M's ~~witness~~ signature thereon.

In that letter the applicant submitted that he had obtained a certificate from the Headmaster of the School in which he had studied indicating his date of birth as 5.6.32.

~~Sub-divisional Inspector~~
He, therefore, requested the ~~B.P.M.~~ to take his date of birth as 5.6.32. Alongwith that letter he has enclosed the original certificate issued by the school as also a photo copy thereof. The applicant claims that he had sent a similar representation in August, 1959 itself as soon as he got the letter dt. 4.8.59. But he had not enclosed a copy of the same. In spite of his representation dt. 14.3.86 the respondents had issued the letter dt. 30.1.89 (the impugned letter wherein they had indicated that the applicant would be completing 65 years of age on 14.7.89 and he would be discharged from E.D. services on the afternoon of 14.7.89.

3. The respondents have filed a counter affidavit and oppose the application. They rely on certain descriptive particulars of the applicant which correspond to the first page of the Service Book of regular employees. In this document it is stated that the applicant had declared his date of birth as 15.7.24 and the applicant is stated to have signed the declaration also. It is further stated that on 18.12.56 when he obtained a certificate of medical fitness from the Doctor, he declared his age as 30 years and the Doctor opined that the applicant by appearance would be

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30 years of age. From this the respondents claim that his date of birth is 15.7.24 and not 5.6.32. They are, however, unable to produce the Doctor's certificate. The respondents also deny that the applicant had submitted a representation dt. 14.3.86 as claimed by the applicant. They are also surprised that in reply to the communication dt. 4.8.59 from the I.P.O. Ponnur Sub Division the applicant chose to reply only on 14.3.86, well after a quarter century. It is their contention that it was only on receipt of the impugned letter dt. 30.1.89 intimating that he would be discharged from service on 14.7.89 that the applicant chose to file this O.A. straightforward. They deny that they had received any communication from him in August, 1959 as claimed by the applicant. They had also checked up with Shri B.Venkateswarlu who worked as Headmaster, PS Elementary School, Edupalli during 1959 to 1967 and they had come to understand that he had never issued such a record sheet to the applicant during the period he worked as Headmaster of the said School. They ~~had~~ also filed a copy of the letter of the Supdt. of Post Offices, Tenali dt. 21.7.89.

4. The applicant ~~had~~ filed a rejoinder questioning the validity of the descriptive particulars relied upon by the respondents. He ~~had~~ also stated that Shri B.Venkateswarlu who had stated that he had not issued the date of birth certificate when he was functioning as Headmaster of the said School is not to be relied upon since he is related to the person who was appointed in his place and that he has vested interests in the case.

5. We have heard the rival sides and examined the case. In the first instance, we shall examine the validity of the descriptive particulars relied upon by the respondents. Soon after admitting this O.A. on 30.6.89 the respondents produced on 12.7.89 a file which contained a declaration made by the applicant indicating his date of birth as 15.7.24. The learned counsel for the applicant stated that the applicant

had never given such a declaration. Hence the Bench directed the Department on 13.7.89, that the Department should refer the document in question to the Handwriting Expert and submit the report of the Expert. On 21.1.92, Shri C. Suryanarayana, learned counsel for the applicant moved M.A.No.79/92 again questioning the validity of the document indicating the descriptive particulars. He insisted on the document being sent to some other Handwriting Expert for verification since he was not satisfied with the opinion expressed by the Handwriting Expert to whom the Department had referred the case without the knowledge of the applicant. The M.A. was dismissed as unnecessary and on 9.3.92 this Bench passed an order stating that since the M.A.No.79/92 had been dismissed as unnecessary, the O.A. would be decided with other material available only without the need for resolving this question relating to the descriptive particulars.

6. We have now to see whether the applicant has produced any convincing evidence that his date of birth is 5.6.32. The respondents had stated that according to the medical certificate issued in December, 1986 the Doctor opined that the applicant was 30 years of age. If this is to be depended upon, then the year of birth of the applicant would be 1926. This year is not the claim of either the applicant or the respondents. Since there is no document available, we do not want to go into this question. In 1959, when the B.P.M. sent a report, he had stated that the applicant was 35 years old at that time. This would indicate that the year of birth would be 1924. The applicant claims that he immediately disputed this. We have gone through the office records submitted by the respondents and do not find anywhere that the applicant had responded immediately in 1959 itself. The respondents are categorical in denying that they have received any such representation.

7. The next stage that we go to, is the applicant's claim that on 14.3.86 he had provided a copy of the certificate

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of the Headmaster of the School in which he had studied, both in original and photostat, indicating his date of birth as 5.6.32. Alongwith the application the applicant has given a copy of his letter dt. 14.3.86 in Telugu with an office stamp "Idupalle Branch Office - Guntur District" and also purported to be bearing the signature dt. 14.3.86 of the B.P.M. The respondents, however, deny that they have received this communication of 14.3.86 from the applicant and we do not find this in the file of the Department placed before us. There again is the contention of the respondents that Shri B.Venkateswarlu who was working as Headmaster of the said School during 1959 to 1967 had never issued such a certificate. From the letter dt. 26.7.89 from the Supdt. of Post Offices, Tenali to the Chief Postmaster-General, Hyderabad annexed to the counter affidavit we find that such a certificate as claimed by the applicant has never been issued by the Headmaster of the said School. The only material that is available to us now is a photo copy of the certificate reportedly issued by the Headmaster of the S.P.S. Elementary School, Edupalli on 1.7.62 which shows the date of birth of the applicant as 5.6.32. We do not have any other material in support of this. What is intriguing is that the applicant who had received the letter dt. 4.8.59 issued by the I.P.O. Ponnur Sub Division asking him to furnish proof of his date of birth did not choose to furnish this document soon after he got the same in July, 1962. He just chose to do so, ~~in~~ only on 14.3.86, more than two decades after what he was required to establish. Under these circumstances we are not able to rely on the piece of document that is placed before us to show his date of birth, ⁵⁻⁶⁻³² ~~in~~ in the face of a report of the B.P.M. which he sent when the applicant appeared for the Class IV test in 1959 indicating his age as 35 years at that time indicating thereby that his year of birth was 1924. The learned counsel for the applicant

MB

relies on a judgment of the Hon'ble Supreme Court in 1982 SCC(L&S)200. He has drawn our attention particularly to paras 10 and 11 of that judgment. The case is a different one where Their Lordships had observed that entries in school register and admission form maintained in the course of regular official duty should be considered reliable more so when the school is a ~~reputed~~ public school. The applicant is stated to have been studying in one of the numerous elementary schools and ~~even~~ ^{Unlike in the case cited,} ~~so~~ the Headmaster at the relevant time had denied that he had issued the certificate showing his date of birth as 5.6.32. All these points put together we are clearly of the opinion that the applicant has failed to establish that his date of birth is 5.6.32 and in such a case we are unable to interfere in this case and, therefore, dismiss the application with no order as to costs.

R.Balasubramanian
(R.Balasubramanian)
Member(A).

T.Chandrasekhar Reddy
(T.Chandrasekhar Reddy)
Member(J).

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Dated: 2nd April
March, 1992.

8134/92
Dy. Registrar(Judl.)

Copy to:-

1. The Sub- Divisional Inspector, Posts, Repalle-522265.
2. The Superintendent of Post Offices, Tenali-522265.
3. The Director-General, Posts (representing Union of India) New Delhi-110001.
4. One copy to Sri. C.Suryanaryana, advocate, CAT, Hyd.
5. One copy to Sri. N.Bhaskara Rao, Addl. CGSC, CAT, Hyd.
6. Copy to reporters as per standard list of CAT, Hyd-Bench.
7. One spare copy.

Rsm/-

Office of the
Postmaster General

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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

THE HON'BLE MR.

V.G.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY:
MEMBER (JUDL)

AND

THE HON'BLE MR. C.J. ROY : MEMBER (JUDL)

Dated: 2/4/1992. ✓

ORDER / JUDGMENT

R.A. / C.A. / M.A. No.

in

O.A. No.

498789. ✓

T.A. No.

(W.P. No.)

Admitted and interim directions
issued

Disposed of with directions

✓ Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/Rejected.

✓ No order as to costs.

pvm.

