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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO. 606 of 1999

Date of Order: 17/01/1990

T.Hanumantha Rao

..Applicant

Versus

Union of India, rep. by
Controller General of Defence
Accounts West Block V,
Ramakrishnapuram, New Delhi-66,
and 2 others

..Respondents

For Applicant: MR.J.V.Laxshmana Rao

For Respondents:Mr.E.Madan Mohan Rao, Addl.CGSC

C O R A M:

HON'BLE SHRI B.N.JAYASIMHA: VICE CHAIRMAN

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(Judgment delivered by Hon'ble Shri B.N.Jayasimha, Vice Chairman)

1. This is an application from an Accounts Officer, P.A.O. (ORS) EME, Trimalgerry, Secunderabad, challenging the order No.AN/285, dated 28-04-1989 in which his request for correction of his date of birth has been rejected.

2. The applicant states that he joined the Defence Accounts Department, Poona, in the year 1958 as Upper Division Clerk. He was subsequently promoted as Accounts Officer on his passing Sub-ordinate Accounts Service examination and he is now working as such in the office of the PAO (ORS) EME, Trimalgerry, Secunderabad.

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3. The applicant states that his date of birth was erroneously entered in Secondary School Leaving Certificate Register as 27-07-1935 instead of 28-07-1936, which he came to know after his appointment in Defence Accounts Department on verifying the date of birth of his brothers and sisters. Since he was away at Poona, he could not check up and take up follow up action to get his date of birth changed. The applicant applied for birth extract from Municipal Office, Machilipatnam and received the same according to which his correct date of birth is 28-7-1936. The applicant made a representation to the department for correction of his date of birth. The Department wrote to the District Educational Officer, Machilipatnam, who has sent a copy of letter dated 4-4-72 received from Head Masger, (Machilipatnam) Hindu College High School, Machilipatnam to the office under letter dated 15-4-72, wherein the Head Master stated that in the event of change of date of birth from 27-7-1935 to 28-7-1936, there would be no difference in admission since the candidate in question studied in the school prior to the issue of G.O.192, dated 28-01-1956 of Education and Endowment, prescribing age limit for admission in Class VI. The applicant's representation dated 21-09-1988 to second respondent for review and reconsideration of his case for change of birth to 28-07-1936 was rejected by the 1st respondent and the same was communicated by the 3rd respondent under his letter dated 28-4-1989. The applicant contends that the rejection of his representation by the 1st respondent for correction of his date of birth is arbitrary and illegal. Hence, the applicant has filed this application.

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4. I have heard the learned counsel for the applicant and Shri E. Madan Mohan Rao, Addl. Central Government Standing Counsel, who has argued on the basis of the draft counter and a copy of the same has been placed before us.

5. The main contention of Sri Laxshmana Rao, learned counsel for the applicant is that the applicant joined the Department prior to the issue of revised Note file under FF 56 i.e. 30th November, 1979 and the Department cannot, therefore, refuse to consider the request of the applicant for change of date of birth for which he has enclosed documentary evidence. He relies on Hiralal Vs. Union of India (ATR 1987 (1) CAT 414, wherein it was held as follows:

"Note 5 to Fundamental Rule 56 governing correction of date of birth in the service record, substituted by Government of India, Ministry of Home Affairs, Department of Personnel and Administrative Reforms Notification No. 19017/7/79-Estts-A dated the 30th November, 1979, published as S.O.3997 in the Gazette of India dated the 15th December, 1979, takes effect from that date. It lays down that a request for the correction of the date of birth in the service record shall be made within five years of entry into Government service. But obviously the five year period of limitation prescribed for the first time under the said SO 3997 cannot apply to those Government servants who were in service by that day for more than 5 years. In issuing the said SO it could never have been the intention of the Government that there should be two classes of Government employees-those employees who had entered Govt. service prior to 15-12-1974 whose date of birth could not be corrected, however erroneous that entry may be and

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others who entered the service within 5 years of the said SO are thereafter entitled to get the entry as to date of birth in the service record corrected. That would be an invidious discrimination unsustainable in law. It is, therefore, reasonable to infer that period of limitation prescribed under the said SO would be applicable to those who entered service after 15-12-1979."

We have considered the above submissions. Following the decision in the above-referred case, the respondents are directed to consider the request of the applicant on merits duly considering the material he has furnished for change of date of birth and pass appropriate orders. The application is allowed to the extent indicated above. No order as to costs. (Dictated in open court)

B.N.Jayasharma
(B.N.JAYASIMHA)
VICE CHAIRMAN

DATED: 17th January, 1990.

SQH*

S) entered
DEPUTY REGISTRAR(S)
24-1-90.

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TO:
1. The Controller General of Defence Accounts, (Union of India) West Block-V Ramakrishnapuram, New Delhi-110 066.
2. The Controller of Defence Accounts(ORS) south ~~sector~~ K.K.Road, Bangalore-560 001.
3. The Joint Controller of Defence, Accounts Incharge, PAO (ORS) EME Trimalgherry, Secunderabad-500 021.
4. One copy to Mr.J.V.Lakshmana Rao, Advocate, Flat No.301, Balaji Towers, New Bakaram, Hyderabad-500 380.
5. One copy to Mr.E.Madan Mohan Rao, Addl.CGSC.,CAT., Hyderabad
6. One spare copy.

Hyderabad Bench
Hyderabad

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Draft by: Checked by: Approved by
D.R.(J)

Typed by: --- ADM. COMPARED BY:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH.

HON'BLE MR.B.N.JAYASIMHA: (V.C.)
AND
HON'BLE MR.D.SURYA RAO: MEMBER (JUDL)
AND
HON'BLE MR.D.K.CHAKRAVORTY: MEMBER: (A)
AND
HON'BLE MR.J.NARASIMHA MURTHY: MEMBER (J)

DATED: 17-1-90

ORDER/JUDGMENT

M.A./R.A./C.A./No. in
T.A.No. (U.P.No.)

O.A.No. 66/89

Admitted and Interim directions
issued.

Allowed.

Dismissed.

Disposed of with direction.

M.A. Ordered.

No order as to costs.

Central Administrative Tribunal
Sent to Xerox on: DESPATCH
26.1.1990
HYDERABAD BENCH.