

(37)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O.A.No.55 of 1989.

Date of Decision: 5-2-1990-

Between:

G.Ramachandra Reddy. .. Applicant.

Vs.

Union of India and two others. Respondent.

M/s H.S.Gururaja Rao and N.Pramod, learned counsel for
the Applicant.

Sri E.Madan Mohan Rao, Additional Standing Counsel for
the Central Government.

CORAM:

(Judgment of the ^{Single} Bench delivered by
Hon'ble Sri J.Narasimhamurty).

--:-

This application is filed seeking directions to the Respondents to treat the applicant's date of birth as 24--1--1940 and effect necessary correction accordingly in his service register and the applicant be retained in service till he attains the age of superannuation based on his correct date of birth i.e., 24--1--1940 and accord all consequential benefits.

2. The facts of the case are as follows:

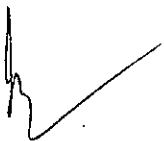
The applicant is the eldest son of his parents having been born on 24--1--1940 in Kothapalli, Lebaka (Hamlet), Kamalapuram Taluk, Cuddapah District. His date of birth was duly entered in the Birth Register


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maintained in the Office of the Sub Registrar, Kamalapuram as 24--1--1940. His younger brother G.Mohan Reddy and his sister Karunavathi were born on 21--1--1947 and 13--2--1950 respectively. Their names were also entered in the Birth Register maintained by the Office of the Sub Registrar, Kamalapuram.

3. The petitioner's father was an illiterate. He did not maintain any record of births of his children. Therefore, at the time of admission of the applicant into the elementary school, his father furnished the applicant's date of birth as ~~xxx~~ 1--7--1939. Such an erroneous date of birth furnished by the applicant's father was carried over in the Secondary School Leaving Certificate and based upon the entry made in the SSLC., entries were made in the service register of the applicant, and his date of birth is treated as 1--7--1939. In fact, the applicant's date of birth is 24--1--1940 as would be evident from the entries made in the relevant Birth Register.

4. Having learnt that his ~~x~~ correct date of birth is 24--1--1940, the applicant obtained a certified copy of the birth extract from the office of the Sub Registrar, Kamalapuram. On the basis of the birth extract obtained by the applicant from the office of the Sub Registrar, Kamalapuram, he made an application on 20--1--1980 to the 3rd respondent and requested him to effect necessary corrections regarding the date of birth ⁱⁿ of his service register. That representation was accompanied by a certified copy of the birth extract obtained from the Office of the Sub Registrar, Kamalapuram.





On a reference made by the Government of Andhra Pradesh, by way of a reply to the representation of the applicant, the Collector, Cuddapah caused an enquiry through the Revenue Divisional Officer, Cuddapah who submitted a report to the effect that the date of birth of the applicant is 24--1--1940. The Collector therefore suggested that the date of birth of the applicant in the service register may be altered from / 1--7--1939 to 24--1--1940, the 3rd respondent arbitrarily turned down the applicant's representation on the ground that the representation was time barred. His action is illegal, arbitrary and unjust. The applicant sent a registered notice to which the 3rd respondent sent reference No.340-D3-86 dated 12--6--1986 stating that the request of the applicant cannot be considered.

5. The applicant being a Civil servant is govern^{ed}ment by the provisions of Article 311 of the Constitution of India. As his date of birth is 24--1--1940 he is entitled to remain in service till the date of his superannuation based upon that date of birth viz., 24--1--1940. Thereafter the applicant filed O.S.No.1150 of 1986 on the file of III Additional District Munsif, Cuddapah which was decreed declaring that the applicant's date of birth is 24--1--1940 but not 1--7--1939 and also declared that the date of birth of the applicant is not binding on the Government, so far as his service register is concerned, because the District Munsif, Cuddapah was not competent, in law to adjudicate upon service matter in view of the constitution of Andhra Pradesh Administrative Tribunal by virtue of the Presidential Order the jurisdiction of all Courts including Civil Courts was ousted in respect of matters covered

by the Presidential ~~Officer~~ *Order*.

6. The Petitioner is a Member of the Indian Police Service which falls within the jurisdiction of this Tribunal as such the present application is filed before this Tribunal for the relief of the above declaration.

7. The respondents have not filed their counter.

M/s H.S. Gururaja Rao and Pramod, learned Counsel ~~Rxxxx~~ for the applicant and Sri E. Madan Mohan Rao, Additional Standing counsel for the respondents argued the matter.

8. In this case the petitioner contended that his father is an illiterate person and at the time of his joining the Elementary School, out of ignorance, he put the date of birth of the applicant as 1--7--1939 instead of 24--1--1940 and it was erroneously continued in the Secondary School Leaving Certificate and subsequently in the Service Register also. On verification from the Sub Registrar's Office, it was disclosed that his date of birth was 24-1-1940. ~~and his~~ ~~as also the brother and sister of the applicant.~~ Basing on this he made representations and they were rejected by the Department as time-barred. So he made an application to the Collector and the Collector also enquired into the matter through R.D.O., Cuddapah and reported to the effect that the date of birth of the applicant is 24--1--1940 but not 1--7--1939. Even the Collector's report was also not accepted. Therefore, the applicant filed a suit for declaration of his correct date of birth in 3rd Additional District Munsif's Court, Cuddapah. The suit was decreed declaring that his date

of birth is 24--1--1940 but not on 1--7--1939 but declared that this will not ~~xxxx xxxxx~~ be binding on the Government.

9. The applicant filed the Birth Extract from the Sub Registrar's Office where his birth was reported and registered. The Collector got enquired the matter and reported after elaborate enquiry that the date of birth of the applicant is 24--1--1940. The date of birth given in Birth Register maintained in Sub Registrar's Office is supported by the report of the District Munsif and also the decree passed by the District Munsif Cuddapah. The applicant's brother's and sister's Birth Register maintained in date of birth were also entered in the Sub Registrar's Office as 21--1--1947 and 13--2--1950. The petitioner being the eldest son his date of birth as noted in the birth register appears to be correct. In the Elementary School Admission Register his date of birth was wrongly entered and it was carried on in the S.S.L.C., Register and subsequently in the Service Register also. At the time of admission into the Elementary School, the applicant's father being an illiterate might have entered the wrong date of birth either on the advice of the Village School Teacher or some villagers for the purpose of admitting him into the school without thinking the consequences of wrong entry of date of birth in later years. They have not evinced any interest to know whether it is correct date of birth or not at any time. Only it is detected after Verifying from the Sub Registrar's Office that his correct date of birth is 24--1--1940. Then the applicant obtained the Birth extract and approached the Department to get it corrected but they did not correct the same on the ground that his request for correction of date of birth was time-barrad.

So he made a representation to the Government and the Government after due enquiry found that the date of birth of the applicant is 24--1--1940. The Civil Court also declared that the date of birth of the applicant is 24--1--1940 ^{The Government} but ^{lay} declared that the said declaration is not binding on the Government. There is every scope of entering wrong dates of birth of the children, ^{lay} when illiterate parents ^{when} admitting them in the Elementary Schools. But there may not be any wrong entries in the Birth Register maintained at the Sub Registrar's office.

The learned counsel for the applicant relies upon a judgment of Calcutta Bench of the Central Administrative Tribunal reported in SAYED SHOBHAN V. UNION OF INDIA & OTHERS (1986(2)ATR.114.) which reads as under:

"The undisputed position of law is that a decree passed by a Civil Court of competent jurisdiction has to be respected. The Civil Court having given a conclusive finding that the date of birth of the applicant is 4th April, 1928, we are bound by the decree and under the law ~~we~~ cannot negative such a finding. It was competent on the part of appellate authority of the learned Subordinate Judge to reverse the judgment if otherwise found to be so done. The limited jurisdiction which we are not exercising divests us from the power of interfering with this finding in any manner whatsoever and, therefore, being bound by the decree passed by the Civil Court, we cannot but say that the date of birth of the applicant is 4th April, 1928. However, the respondents were directed to correct the date of birth of the applicant in the

To:

1. The Secretary, (Union of India) to Government, Department of Home Affairs, Ministry of Personnel etc., New Delhi.
2. The Secretary to Government, Home (Police) Department, Secretariat, Hyderabad-4. 500 022 State of Andhra Pradesh.
3. The Director-General & Inspector-General of police Andhra Pradesh, Hyderabad-500 004.
4. One copy to Mr. H.S. Gururaja Rao, Advocate, 3-5-703, opp. Old M.L.A. Quarters, Himayatnagar, Hyderabad-500 029.
5. One copy to Mr. E. Madan Mohan Rao, Addl. CGSC, CAT, Hyd.
6. One spare copy.
7. one copy to D.R. (S) C.A.T. HYDERABAD-
....

kj.

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relevant register as 4--4--1928 and give him necessary benefits to which he is entitled according to rules."

10. In this case the Court declared that the date of birth of the Applicant is 24--1--1940. The Applicant has filed the birth register extract and the Collector got made enquiry and reported that the date of birth of the applicant is 24--1--1940. Following the decision of the Calcutta Bench of the Central Administrative Tribunal and on the basis of the Birth Register Extract, Collector's report and the Civil Court's declaration that the date of birth of the applicant is 24--1--1940, I have no hesitation to come to conclusion that the date of birth of the petitioner is 24--1--1940. So I hold that the correct date of birth of the applicant is 24--1--1940 but not 1--7--1939. The respondents are directed to correct the date of birth of the applicant as "24--1--1940" in the Service Register and in the relevant records and give him the necessary benefits to which he is entitled according to the Rules as per the altered date of birth i.e., 24--1--1940. The applicant is entitled to be retained in service till he attains the age of superannuation on the basis of his date of birth i.e., 24--1--1940.

11. The application is allowed accordingly. There will be no order as to costs. The respondents are directed to implement these orders within two months from the date of receipt of these orders.

(J. NARASIMHAMURTY)
Member (Judl.)

Date: 5.2.90

SSS.

DEPUTY REGISTRAR (J)

6.2.90

Received by
T. S. S. S.
6/2/90

TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR

V.C.

AND

THE HON'BLE MR.

M(J)

AND

THE HON'BLE MR. J. NARASIMHA MURTY: M(J)

AND

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

DATED: 27-8-1991

Central Administrative Tribunal
HYDERABAD BENCH

ORDER/ JUDGMENT 3 SEP 1991

RECEIVED

TAPPAL SECTION

M.A./R.A./C.A. No. 9/91

in

D.A. No. 55/89

T.A. No.

(W.P. No.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.

27.8.91