

(34)

ORIGINAL APPLICATION NO.113 of 1990

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI B.N.JAYASIMHA, VICE CHAIRMAN

The applicant herein who was working as Head Train Examiner in the Guntakal Division of South Central Railway filed this application questioning the order No.G.P. 579/III/C&W/Vol.III dated 25.10.1989 passed by the 2nd respondent whereby the applicant's retirement was notified to take effect from 28.2.1990. In this proceeding, his date of birth was shown as 9.2.1932. The applicant states that when he ~~was~~ initially joined the Railways on 27.7.54 in the Carriage and Wagon Depot, Guntakal, he had given his date of birth as 21.9.1935. According to this date, the date of superannuation would be 30.9.1993. To his surprise, he received the impugned memo dated 25.10.1989 communicated by the 2nd respondent. In the service register, his date of birth was recorded as 21.9.1935 whereas in the impugned notification his date of birth was given as 9.2.1932. The applicant ~~stages~~ learnt that the Assistant Personnel Officer (M), South Central Railway, Guntakal has rounded off the correct date of birth i.e., 21.9.1935 and put the date of birth as 9.2.1932 without any authority. Without notice or enquiry, the date of birth of the applicant ~~should~~ not have been changed to his disadvantage. On receipt of the impugned order, the applicant filed a representation to the 1st respondent along with the Birth Register extracts of himself and his elder brother Mr. T.K.Lakshmanaswamy issued by the

Pr

....2

.. 2 ..

Health Officer, City Municipality, Bellary. The certificates were issued on the basis of the entries in the original record of Birth for the years 1935 and 1932 respectively. The representation was submitted to the 1st respondent on 15.1.1990 but the 1st respondent has not sent any reply. The applicant, therefore, prays that the impugned order may be set-aside and the date of birth of the applicant be shown as 21.9.1935 and his date of superannuation be declared as 30.9.1993.

2. On behalf of the respondents, a counter has been filed stating that this is a case of tampering of official records in respect of the date of birth of the applicant. In all the official records, his date of birth is mentioned as 9.2.1932. It is denied that when the applicant joined service on 27.7.1954, he has given his date of birth as 21.9.1935. It is stated that the 1st two pages of Volume-II of his service register were replaced and on the first two pages of the said volume, entries that support the present contention of the applicant were made. The contention that the applicant was asked to put his thumb impression and to sign on the 1st sheet of the IIInd volume of the service register, cannot be sustained. There is no practice or procedure under the rules for calling any employee at the time of opening the IIInd volume of the service register, to affix his thumb impression or to put his signature, or to carry the particulars of 1st page of 1st volume. While reiterating that the date of retirement of the applicant should be 28.2.1990 as communicated in the impugned order dated 25.10.1989, it is stated that the

b/w

b/w

applicant with the connivance of some of the staff of the service register sections got hold of his original service register and erased his date of birth in the service register and altered it as 21.9.1935 which could be very clearly seen. He also manipulated to replace the two pages of the IIInd volume of service register duly affixing a photostat copy of the date of birth certificate issued by the Health Officer, Bellary Municipality dated 15.11.1989. Various documents like the seniority register, seniority list published from time to time and confidential report maintained, the medical identity card etc., disclose that the applicant himself declared his age as 44 years as on 20.7.1976. Further, in his application in which he submitted as a volunteer for the post of TXR, he mentioned that his date of birth is 9.2.1932. It is stated that if the applicant be called upon to produce his school certificate as well as his alleged brother's old school certificate, the position would be clearly known. It is denied that he made a representation on 15.1.1990. It is stated that even if he had made such a representation, it did not reach the proper authority. Despite being told as long back as in October 1989 about his date of retirement, he chose to wait till 14.1.1990 to make representation. It is further stated that a charge sheet is already issued to the persons concerned which includes the applicant for tampering the date of birth. No notice is necessary since the applicant did not get any benefit at any time from the altered date of birth. For these reasons, it is prayed that the application may be dismissed.

3. We have heard the learned counsel for the applicant, Shri P.Krishna Reddy and the learned Additional Standing

fwd

fwd

(3)

Counsel for the Railways, Shri N.R. Devaraj on behalf of the respondents. Shri Krishna Reddy argues that the respondents cannot rely upon any other document other than what is recorded in the service register. He also contends that a perusal of the documents referred to would show that they cannot be relied upon. Shri Devaraj has produced the records before us which contains an application dated 24.9.1976 viz., an application of the applicant prepared by the applicant himself for the post of TXR in the pay scale of Rs.425-700 in which the applicant himself has shown his date of birth as 9.2.1932. Another record produced is the medical declaration which was prepared in the year 1976 showing the age of the applicant as 44 years. Shri Devaraj, therefore, states that the applicant himself declared his date of birth as 9.2.1932 as seen from the various papers. In regard to the tampering of the records, a charge memo was issued prior to the date of retirement of the applicant from service and the same is under enquiry. The applicant retired from service on 28.2.1990 on the basis that his date of birth is 9.2.1932. He, therefore, states that there is no illegality in the order of retirement.

4. We have given our full consideration to the contentions of the applicant and the respondents. The question whether the applicant got his records tampered or tampered them himself is the subject matter of an enquiry and nothing, therefore, can be said by us at this stage. If it is established that the applicant has tampered the records and that his date of birth is 9.2.1932, the claim of the applicant will have no basis. If on the contrary, the enquiry establishes that he had not tampered the date of

b/w

20/1

birth entry in the service register, it would follow that the applicant would be deemed to have continued in service till the date of superannuation on the basis of his date of birth as 21.9.1935. The related papers which are relied upon by the respondents like the application for the post of TXR, medical identity card etc., are all documentary evidence in the enquiry and we wish to express no opinion about their evidential value. All these are matters to be gone into in the departmental enquiry.

5. The application is accordingly dismissed. There will be no order as to costs.

(Dictated in the open Court)

B. Jayasimha

(B. N. JAYASIMHA)
Vice Chairman

D. Surya Rao
(D. SURYA RAO)
Member(Judl.)

Dated: 17th July, 1990.

H. M. S. 17-7-90
DEPUTY REGISTRAR(JUDL)

To

1. The Divisional Railway Manager, S.C.Railway, Guntakal.
2. The Senior Divisional Personnel Officer, S.C.Rly, Guntakal
Anantapur Dist.
3. The Assistant Personnel Officer, (Mechanical) S.C.Rly, Guntakal.
4. The Carriage and Wagon Superintendent, C&W Office,
vsn S.C.Rly, Guntakal.
5. One copy to Mr.P.Krishna Reddy, Advocate.
3-5-899, Himayatnagar, Hyderabad - 29.
6. One copy to Mr.N.R.Bevraj, SC for Rlys, CAT.Hyd.Bench.
7. One spare copy.

pvm

PC Blank

ASR
20/7

(3)

23

CHECKED BY

APPROVED BY

TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.B.N.JAYASIMHA : V.C.

AND

THE HON'BLE MR. D.SURYA RAO:MEMBER(J)

AND

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

AND

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

DATE: 17/7/90

ORDER/JUDGMENT:

.../ R.A/C7A/No.

in

T.A. No.

W.P. No.

O.A. No. 113/90

Admitted and Interim directions issued
Allowed.

Dismissed for Default.

Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

M.A. Ordered/Rejected

No order as to costs

