

(23)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO. 464 of 1990

DATE OF JUDGMENT: 12 JANUARY, 1991

BETWEEN:

Mr. M. Venkateswara Rao

.. Applicant

AND

1. The Union of India represented by the Director General, Telecommunications, New Delhi.
2. The Chief General Manager, Telecommunications, Hyderabad-1.
3. The Deputy General Manager, Telecommunications, Vijayawada Telephone District, Vijayawada.

.. Respondents

FOR APPLICANT: Mr. J.V. Laxmana Rao, Advocate

FOR RESPONDENT: Mr. E. Madan Mohan Rao, Addl. CGSC.

CORAM: Hon'ble Shri J. Narasimha Murthy, Member (Judl.)
Hon'ble Shri R. Balasubramanian, Member (Admn.)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI J. NARASIMHA MURTHY, MEMBER (JUDICIAL)

This is a petition filed by the petitioner for a relief to direct the respondents to change his date of birth from 31.8.1933 to 31.7.1936 as per birth extract furnished and incorporate the changed date of birth in his Service

Records maintained for the purpose. The facts of the case are briefly as follows:-

The applicant was originally appointed as Telephone Operator at Vijayawada ~~as~~ in the Telecommunications Department with effect from 4.7.1958. He was promoted as Telephone Supervisor (Operative) in 1974 and later confirmed in the said post with effect from 1.2.1987. He has been working as such at Vijayawada Telephone Exchange. He states that his date of birth was erroneously entered as 31.8.1933 and accordingly the same was recorded in the official records. The applicant has come to know of his correct date of birth as 31.7.1936 when he had an occasion to go to his native village, Ravulapad of Gudivada Taluk, Krishna District to attend to landed property dispute after the death of his father. He found from certain old records kept by his deceased father that his date of birth is 31.7.1936. He then applied to the Manadal Revenue Officer, Pedaparupudi for a birth extract and obtained the same in a detailed prescribed form. The applicant submitted a representation dated 12.12.1989 to the District Manager, Krishna ~~District~~ Telecom District, Vijayawada to change the date of birth as 31.7.1936 enclosing therewith a copy of the birth extract and declarations of his mother. The applicant was directed to produce the original documents viz., the SSLC Register and birth extract under letter No.QV/87/101 dated 22.1.1990 by the District Manager, Vijayawada Telecom, Vijayawada. Thereupon, the applicant was informed of the rejection of his request for change of date of birth under letter No.E.5/Corry NBP.II/8191/17 dated 4.5.1990 of the Assistant Engineer, Tele-

phones-II, Vijayawada. The request for the change of his date of birth was arbitrarily rejected without assigning any reason. The applicant contends that he is entitled for change of his date of birth on the basis of birth extract issued by the Mandal Revenue Officer and the declarations furnished by his mother. Hence, he filed the present application for the above said reliefs.

2. No counter affidavit is filed on behalf of the respondents.

3. Shri J.V.Laxmana Rao, learned counsel for the petitioner and Shri E.Madan Mohan Rao, Addl. CGSC on behalf of the respondents, argued the matter. Shri Laxmana Rao relied upon a decision of this Tribunal in O.A.No.606 of 1989 dated 17.1.1990 wherein his lordship disposed of the matter basing on a decision reported in ATR 1987(1) CAT 414 (Hiralal Vs. Union of India) which reads 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 S.O., it could never have been the intention of the Government that there should

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To

1. The Director General, Union of India, Telecommunications, New Delhi.
2. The Chief General Manager, Telecommunications, Hyderabad-1.
3. The Deputy General Manager, Telecommunications, vijayawada Telephone District, vijayawada.
4. One copy to Mr.J.V.Laxmana Rao, Advocate Flat No. 301, Balaji Towers New Bakaram, Hyderabad.
5. One copy to Mr.E.Madanmohan Rao Addl. CGSC.CAT.Hyd.
6. One copy to Hon'ble Mr.J.Narasimha Murty, Member (J)CAT.Hyd.
7. One spare copy.

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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 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 find from the letter No. EST/Corr/BBP.II/8191/17 dated 4.5.90 of the Asst. Engineer Telephones-II, Vijaywada that the request of the applicant for the change of date of birth had been rejected by the Circle Office. No reasons had been given for the rejection. We, therefore, direct the respondents to communicate to the ~~respondents~~ the reasons for the rejection of his request for the change in date of birth within two months of the date of receipt of this judgment. If, after this, the applicant still feels aggrieved, he is given the liberty to approach this Tribunal for redressal.

4. The application is disposed of thus with no order as to costs.

J.N.M

(J.Narasimha Murthy)
Member(Judl).

R.B.S
(R.Balasubramanian)
Member(Admn).

Dated: 22 January, 1991.

DR
Deputy Registrar (Judl)

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CHECKED BY

APPROVED BY

TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

AND

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

AND

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

Dated: 22-1-1991.

ORDER / JUDGMENT:

M.A./R.A. /C.A. NO.

in

T.A. No.

W.P. No.

O.A. No. 464/90

Admitted and Interim directions
issued.

Allowed

Disposed of with direction

Dismissed

Dismissed as withdrawn

Dismissed for default 30 JAN 1991

M.A. Ordered/Rejected

HYDERABAD BENCH.

No order as to costs.

Central Administrative Tribunal
DESPATCH