

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD

BENCH AT: HYDERABAD

O.A. No.60/1990

Date of Order:26.3.1990

Between:

P. Nagu Rao,  
PW-I, Gr.II, CPP  
South Eastern Railway,  
WALTAIR

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Applicant

Versus

1. The General Manager,  
South Eastern Railway,  
Calcutta.
2. The Chief Personnel Officer,  
S.E. Railway, Calcutta.
3. The Divisional Railway Manager,  
S.E. Railway, Waltair.
4. The Divisional Personnel Officer,  
S.E. Railway, Waltair. ..

Respondents.

APPEARANCE:

For the Applicant .. Sri K. Sudhakar Reddy, Advocate  
For the Respondents .. Sri P. Venkata Reddy, Standing  
Counsel for Railway.

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CORAM:

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

HON'BLE SHRI D. SURYA RAO, MEMBER (JUDICIAL)

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The applicant is a Railway Employee, and he seeks the quashing of order No.90/V/Engg/VZM/(8)108/PN<sup>Rao</sup>/dt. 22-3-1989 issued by Divisional Personnel officer, Waltair. The applicant states that he joined in the year 1956 as a Gangman and that his date of birth was entered as 1-4-1932. In 1969, he was promoted as PWM. He was called upon to produce his school certificate. He produced the said certificate which contains the entry against the column date of Birth as 1-4-1932. He further states that he was repeatedly appealing to the authorities since...

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1970 for alteration of his date of birth as per his school certificate. The authorities have turned a deaf ear and rejected his claim. He states that this rejection was communicated to him through the impugned order dt. 22-3-89 without giving any cogent reasons and that when there is cogent indisputable documentary evidence viz., the school certificate, the respondents are bound to correct the date of birth in accordance with para 145 of the Railway Establishment Code Vol.I. He relies on various decisions in support of his claim.

On behalf of the respondents a counter has been filed stating that the applicant had approached the administration through his union for correction of his date of birth. But the same was turned down as long back as 1979 by the CPO/GRC by order dated 27-10-79, and the applicant should have agitated and approached the law courts at that time only if he was agrieved by the reply dt. 27-10-79. In view of his failure to do so this application cannot be entertained. So far as the plea of the applicant that the orders then passed are not speaking orders, it is contended that the relevant files are not traceable at this point of time. It is further contended that even in respect of the order dt. 22-3-89 which only communicated the earlier order dt. 27-10-89, the applicant has taken one whole year to approach the Tribunal viz., at the fag end of his service. On this ground also it is contended that the application is belated and should not be entertained. It further contended that if the date 1-4-36 is taken as the correct date of birth, then he would have been less than 21 years of age at the time of joining service and in view of this his pay should have been reduced. The applicant has received a salary

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contd..

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To:

1. The General Manager, south Eastern Railway, Calcutta.
2. The Chief personnel officer, S.E.Railway, Calcutta.
3. The Divisional Railway Manager, S.E.Railway, Waltair.
4. The Divisional Personnel officer, S.E.Railway, Waltair.
5. One copy to Mr.K.Sudhakar Reddy, Advocate 21-133, Uttamnagar, Malkajgiri, Hyderabad-500 002.
6. One copy to Mr.N.R.Devaraj, SC for Railways, CAT., Hyderabad.
7. One ~~xxxxxx~~ spare copy.

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kj.

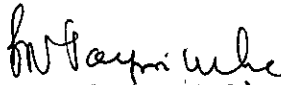
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6/1/90.


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of Rs.30/- in the scale Rs.30- $\frac{1}{2}$ -35 and having drawn full initial pay, cannot now claim that his date of birth was less than 21 years at the time of joining in service. For these reasons, it is contended that the application is liable for dismissal.

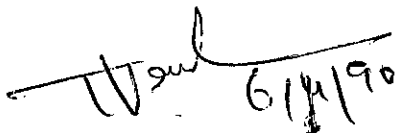
We have heard the learned counsel for the applicant Shri K. Sudhakar Reddy, and Shri N.R. Devaraj, Standing counsel for the respondents. The applicant admits that he was first informed that his plea for correction of his date of birth had been rejected through the letter No.P/U/PNM/376/15/CC dt. 27-10-79. The applicant does not deny that he has not received this order as it is in his own material papers. If that is the case, the applicant should have approached the High Court which was the court competent jurisdiction within a reasonable time after receipt of the said order. Instead he kept quiet when he was informed by the impugned order dt. 22-3-89 that his case has been rejected as long back as 27-10-79, he seeks to contend that <sup>this</sup> is a fresh order. He cannot be permitted to do so. The cause of action arose by the order dt. 27-10-79. If that be the case this, Tribunal does not have jurisdiction to entertain since it was passed 3 years earlier to the Constitution of this Tribunal. Section 21 of Admn. Tribunals Act is the bar for entertaining the same. The application is accordingly dismissed.

(Dictated in the Open court)

  
(B.N. JAYASIMHA)  
VICE CHAIRMAN.

  
(D. SURYA RAO)  
Member: (Judl)

Date: 26-3-1990

  
6/4/90  
DEPUTY REGISTRAR(A)

80  
6/12/90

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

Typed by:

Compared by:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH.

HON'BLE MR.B.N.JAYASIMHA: (V.C.)

A N D

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

A N D

HON'BLE MR.J.NARASIMHA MURTHY: (M)(J)

A N D

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

DATED:

26/3/90

ORDER/JUDGMENT:

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

T.A.No. (W.P.No. )

D.A.No.

60/90

Admitted and Interim  
directions issued.

Allowed.

Dismissed ~~for default~~.

Dismissed.

Disposed of with direction.

M.A. ordered.

No order as to costs.

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