

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.106/91.

Date of Judgment 9.7.91.

Khaleem alias
Khaleemuddin Shefruddin .. Applicant

Vs.

- 1. Union of India
represented by its
Chief Personnel Officer,
South Central Railway,
Secunderabad.
- 2. Divisional Railway
Manager(Personnel),
Hyderabad/MG/SC,
South Central Railway,
Secunderabad. .. Respondents

Counsel for the Applicant : Shri S.Lakshma Reddy

Counsel for the Respondents : Shri D.Gopala Rao,
SC for Railways

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)

Hon'ble Shri R.Balasubramanian : Member(Admn)

{ Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn) }

This application has been filed by Shri Khaleemuddin Shefruddin under section 19 of the Administrative Tribunals Act, 1985 against the Union of India represented by its Chief Personnel Officer, South Central Railway, Secunderabad seeking a direction to the respondents that his date of birth be altered from 1.7.33 to 20.8.37.

2. The applicant was initially appointed in the Railway service on 4.5.55 as Dresser in Class IV service under the D.M.O., Central Railway, Bhusaval. According to him,

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at the time of his appointment his date of birth was recorded as 20.8.37 on the basis of the school certificate. In the year 1974, he passed the S.S.C. examination as an external candidate and in these records his date of birth is shown as 20.8.37. Thereafter, he appeared for another examination and in the certificate relating to that examination also his date of birth is shown as 20.8.37. After he passed the Tenth (X) Class, the respondents appointed him to Class III post as Junior Clerk vide Office Order No.96/80 dated 25.1.80. It was after his appointment as Junior Clerk that he came to know that his date of birth was wrongly recorded as 1.7.33. He immediately made a representation but with no success. It is stated by the applicant that the respondents are having doubts about the identity of the person. In the official records his name is shown as Khaleem Sherfuddin while in the S.S.C. certificate and other documents he had quoted the name is shown as Khaleemuddin Sherfuddin. To dispel these doubts the applicant submitted a certificate dated 6.8.90 from the Headmaster of the School and also a certificate dated 3.12.90 issued by the D.M.O., Central Railway, Bhusaval, He also filed an affidavit dated 6.8.90 sworn before the Executive Magistrate, Akola. The applicant, therefore, prays that his date of birth be corrected from 1.7.33 to 20.8.37.

3. The application is opposed by the respondents. It is denied that at the time of his entry into the Department on 4.5.55 he did not produce any record with regard to his date of birth, and his date of birth was recorded as 1.7.33 basing on the physical fitness certificate No.28

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dated 1.7.55 issued by the Asst. Surgeon, Gr.I, Igathpuri in terms of Rule 144(2)(e) of the Indian Railway Establishment Code Vol.I. According to this, the medical authorities assessed his age as 22 years as on 1.7.55 and hence his date of birth was computed as 1.7.33. It is admitted by them that the applicant was promoted after the production of the Tenth (X) Class certificate. The applicant was promoted as Junior Clerk with effect from 25.1.80. It is pointed out by them that in all the official records the applicant has been shown as Kalim Sharfuddin and that the applicant has been signing as Kalim Sharfuddin and not as Khaleemuddin Sharfuddin. It is also pointed out by them that after so many years of service at this late stage he should not seek a change in his date of birth.

4. We have examined the case and heard the learned counsel for the applicant and the respondents. It is seen from para 5 of the judgment of the Jabalpur Bench of this Tribunal [1988(5) SLR 587] that the Jabalpur Bench held that the Medical Officer's opinion based on mere visual impression without full medical examination and without recording any reasons cannot be considered to be the opinion or evidence of an expert and if it is controverted by reliable documentary evidence the latter would prevail over the Medical Certificate. But, in this case we find from the Railway records that the certificate was issued on 1.7.55 ^{after} ~~when~~ the Asst. Surgeon, Gr.I, Igathpuri had examined the applicant and put his age as 22 years. It ^{is not} ~~is~~ a mere visual impression of the Medical Officer but after a medical

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examination. Therefore, there is no direct application of the decision of the Jabalpur Bench in this case. Even so, we shall proceed to examine whether there is any overwhelming documentary evidence which would show his date of birth otherwise. On scrutiny we observe the following:-

(a) The applicant claims that when he joined the service his date of birth was correctly recorded as 20.8.37 on the basis of the school certificate. In the course of the hearing the learned counsel for the applicant was mentioning that at that time he has passed the Sixth (VI) Standard. A person who has passed the Sixth (VI) Standard should be able to sign at least in his own language if not in English. On the other hand, we find that in the Medical Certificate issued by the Asst. Surgeon, Gr.I, Igathpuri, instead of the signature of the candidate there is only the thumb impression. It is, therefore, doubtful if at the time of entering the service in May, 1955 the applicant was a literate at all. Moreover, the respondents have categorically ^{stated} denied that at the time of joining the service the applicant had not produced any record with regard to his date of birth and, therefore, his date of birth had to be decided by a medical examination and it was accordingly computed that his date of birth was 1.7.33.

(b) We find that ~~on 11.10.79~~ there is an option form ^{dated} 11-10-79 regarding pension. In that form the optee had signed in English as Kalim Sharfuddin. In the same form it had been certified by the A.D.M.O., Central Railway, Akola that the rules were explained to Shri Kalim Sharfuddin, Dresser, Akola

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before his signing the option. This kind of a certificate is applicable only in the case of Class IV and illiterate employees. As against this, the Maharashtra State Board of Secondary Education, Nagpur states that Kalimuddin Sharifuddin (not Kailm Sharfuddin) had passed the Secondary School Certificate Examination in 1974. It was in this certificate that the date of birth has been indicated as 20.8.37. A person who had passed the S.S.C. Examination in 1974 cannot be considered an illiterate in November, 1979. As against the above ~~two~~, it has been stated by the respondents that the applicant was promoted after production of the Tenth (X) Class certificate. They have not stated what date of birth had been indicated in the Tenth (X) Class certificate based on which they promoted the applicant. They have also not stated what name had been indicated in that certificate based on which the applicant's promotion to Gr.C was effected. It is probable that the respondents had effected the promotion on the basis of the certificate issued by the Maharashtra State Board of Secondary Education, Nagpur where the name had been indicated as Kalimuddin Sharifuddin and the date of birth ~~is~~ shown as 20.8.37. On the basis of this alone we cannot come to the conclusion that Kalim and Kalimuddin are one and the same person and that the date of birth is 20.8.37 since there is a possibility of an error ^{having been} ~~being~~ committed by the respondents at the time of promoting the applicant.

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5. The applicant has also furnished copies of a certificate dated 6.8.90 issued by the then Headmaster and also a testimonial dated 3.12.90 issued by Dr. M.V.Tank. He has also furnished an affidavit before a Magistrate. We ~~do not~~ feel that these do not sufficiently establish that Kalim Sharifuddin and Kalimuddin Sharifuddin are one and the same person. Since we are not in a position to accept that Kalim Sharifuddin and Kalimuddin Sharifuddin are one and the same person we are not in a position to order a change in the date of birth. The application is accordingly dismissed with no order as to costs.

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(J.Narasimha Murthy)
Member(Judl).

R. Balasubramanian
(R.Balasubramanian)
Member(Admn).

Dated 9th July 91

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Deputy Registrar (J)

- To
1. The Chief Personnel Officer, S.C.Railway Union of India, Secunderabad.
 2. The Divisional Railway Manager (Personnel) Hyderabad/MG/SC, S.C.Rly, Secunderabad.
 3. One copy to Mr.S.Lakshma Reddy, Advocate 3-4-549/3, Behind YMCA, near Andhra Bank, Narayanaguda, Hyd.
 4. One copy to Mr.D.Gopal Rao, SC for Rlys CAT.Hyd.Bench.
 5. One copy to Hon'ble Mr.J.Narasimha Murty, Member(J)CAT.Hyd.
 6. One spare copy.

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6th July 91