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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD

D.A. No. 371/91

T.A. No.

Dt. of Decision: 24-11-1992

V. Kotiswara Rao Gupta

Petitioner

D. V. Bhadram

Advocate for
the Petitioner
(s)

Union of India, Rep. by Secretary, M/o Rly.
Rly. Board, New Delhi & 3 others Versus
Respondent.

N R Devineni & D. Pandiranga Reddy

Advocate for
the Respondent
(s)

CORAM:

THE HON'BLE MR. T. Chandra Sekhara Reddy, Member (J)

THE HON'BLE MR.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal?
5. Remarks of Vice-Chairman on Columns 1, 2, 4 (to be submitted to Hon'ble Vice-Chairman where he is not on the Bench.)

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No

T. C. N. S.
HTCR
M (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

OA.371/90

Date of Decision : 24.11.92

Between

V.K.R. Gupta : Applicant
and

Union of India, rep. by Secretary,
Ministry of Railways,
Railway Board, New Delhi

2. The General Manager
South Central Railway
Secunderabad

3. Govt. of Andhra Pradesh, rep. by
The Secretary to Govt.
Education Department
Secretariat, Hyderabad

4. Financial Advisor & Chief
Accounts Officer, SC Railway
Rail Nilayam, Secunderabad : Respondents

Counsel for the applicant : D.V. Bhadram, Advocate

Counsel for the respondents : N.R. Devaraj, Standing Counsel
for Railways

D. Pandu Ranga Reddy, Standing
Counsel for Govt. of A.P.

CORAM

HON. MR. T. CHANDRASEKHARA REDDY, MEMBER (JUDICIAL)

Judgement

(Orders as per Hon. Mr. T. Chandrasekhara Reddy, Member (Judl))

This is an application filed by the applicant herein
under Section 19 of the Administrative Tribunals Act to cor-
rect his date of birth from 5-4-1936 to 16-11-1939 and to
pass such other orders as may deem fit and proper in the
circumstances of the case.

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2. The facts so far necessary to decide the controversy in the issue may briefly be stated as follows :

The applicant herein is working ~~as Senior~~ Stenographer in the office of the Financial Adviser & Chief Accounts Officer, South Central Railway, Secunderabad. The applicant's date of birth was entered as 5-4-1936 in his Service Register ~~and~~ when the applicant entered into the service. The date of birth of the applicant ^{as} 5-4-1936 was entered in his Service Register based upon the date of birth of the applicant ~~as was found~~ in the SSLC Certificate. It may be mentioned that the applicant is a student of Bandla Bapiah ^{in the state of Andhra Pradesh} Hindu High School, Vetapalem. The applicant approached the competent authority in the Education Department of Andhra Pradesh and got corrected his date of birth in his SSLC Register from 5-4-1936 to 16-11-1939. On the basis of the corrected date of birth as 16-11-1939, the applicant approached the respondents to accept his date of birth as 16-11-1939 and make subsequent correction accordingly in his Service Register. The applicant's request was not acceded to by the respondents. Hence, the present OA.

3. Counter is filed by the respondents opposing this OA. It is case of the respondents that there is no satisfactory proof to show that the correct date of birth of the applicant is 16-11-1939 and so the applicant is not entitled to have his date of birth corrected to 16-11-1939 from 5-4-1936. Some other pleas are also rised by the respondents. It is not necessary to refer to the other pleas rised by the respondents, to decide this OA.

4. The applicant has also filed additional affidavit explaining the period of his ^{studies the} stay in high school and various steps he had taken ^{before} from the competitive authorities to get

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his date of birth corrected in his SSLC Register.

5. We have heard today Mr. D.V. Bhadram, Counsel for the applicant and Mr. N.R. Devaraj, Standing counsel for the Railways.

6. It is needless to point out in a case of alteration of date of birth that the burden is heavily cast on the applicant to show that the claimed date of birth is the correct date of birth. To substantiate the case of the applicant it is ^{the} bounden duty of the applicant to produce the best evidence before the Tribunal. The applicant has produced before the Tribunal the birth extract which is Annexure-II to the additional affidavit filed by the applicant. In the birth extract it is simply mentioned that the date of birth of the child is 16-11-1939 and the child is a male. Name of the father of the said child is mentioned as Vutukuri Seethaiah and mother's name is mentioned as Sowbhagyam. According to the Applicant the names of Seethaiah and Sowbhagyam mentioned therein relate to ~~the~~ ^{7.} As already pointed out it is case of the applicant that the said birth extract containing date of birth as 16-11-1939 relates to him only. The declaration made by the father is available on the file as Annexure-IV to the additional affidavit on behalf of the applicant. It would be pertinent here to extract the entire Annexure-IV :

"Declaration regarding the total number of children born to the parents

I, Vutukuri Seethaiah, parent of Koteswara Rao Gupta, on whose behalf an application has been preferred for the correction of his date of birth do hereby solemnly and sincerely affirm that the list of children mentioned in the schedule appended hereunto comprises the total number of children born to me ... as on

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S.No.	Name of the child	Date of birth
1.	Vutukuri Satyavathi	10-1-1931
2.	Vutukuri Subbarayudu	10-7-1932
3.	Vutukuri Pandurangarao Gupta	10-7-1933
4.	Vutukuri Satyanarayana	16-9-1935
5.	Vutukuri Radhakrishnamurthi	2-1-1938
6.	Vutukuri Koteswararao Gupta	16-11-1939
7.	Vutukuri Parvathi Devi	1-1-1942
8.	Vutukuri Seethadevi	10-10-1943
9.	Vutukuri Tilak	21-1-1945

Solemnly affirmed or sworn by Sri V. Seethaiah this day of 24th February, 1965 before me.

The contents of this affidavit (or solemn affirmation) have been first truly and audibly read over to the parent in Telugu (Language) he being unacquainted with the language/blind who appeared perfectly to understand and the same and make his mark thereto (or signed the same) in my presence.

Sd/-

Signature and Designation of Officer or other person before whom this is affirmed or sworn

(Medical Officer
Primary Health Centre
Vetapalem)

Indicate here the name of the parent if declaration is signed by the guardian.

This has to be used when the deponent is unacquainted with the language of the affidavit or is blind or illiterate."

8. So as could be seen from the declaration of the father of the applicant, the applicant herein is the sixth issue to his parents. But in the birth extract that is filed there is nothing to show that the child whose date of birth as recorded was the sixth issue to its parents. So, as the birth extract is silent with regard to the number of issues of the parents, heavy burden is cast on the applicant to show that the said birth extract filed before this Tribunal relates to the applicant. So, the best course for the applicant would have been to file birth extracts of his five sisters and brothers who are elder than him and to show that the birth

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extracts filed before this Tribunal (Annexure-II) already referred to relates to this applicant. Absolutely no explanation is given by the applicant for non-filing of the birth extracts of all his five sisters and brothers who are ~~elder~~ than him. So there is no proof to show in this case that the said birth extract filed before this Tribunal relates to the applicant. So when there is no proof to show that the birth extract filed before the Tribunal relates to the applicant, the applicants' case naturally fails. ~~No doubt, the learned counsel appearing for the applicant very much relies on the declaration filed by the father which is already filed and on the basis of the declaration the contention of the learned counsel that it can be accepted at the date of birth of the applicant herein as 16-11-1939. The father of the applicant who is Vutukuri Seethaiah, naturally would be very much interested in the success of his son in this OA. So, his declaration stating that the date of birth of the applicant is 16-11-1939 cannot be accepted in the absence of any independent and acceptable evidence. But as already pointed out, there is no proof to show that the birth extract filed before this Tribunal relates to the applicant no reliance can be placed on the declaration of the father stating that the date of birth of the applicant is 16-11-1939.~~

9. Thus as could be seen, it is ~~the~~ case where there is no acceptable evidence to show that the correct date of birth of the applicant is 16-11-1939. Hence, this OA is liable to be dismissed.

10. Learned counsel appearing for the applicant strenuously contended that on the basis of the altered date of birth in the matriculation certificate as 16-11-1939 that the applicant is entitled to the relief as prayed for by him.

11. In this context we may refer to a decision in Dharam Pal Sharma v. State of HP and another, 1989(2)SLJ (CAT) 145 (Shimla),

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wherein it is laid as follows :

"We are unable to accept the line of argument advanced by the learned counsel for the applicant that the appointing authority was in turn bound to make a corresponding correction in the service record automatically on a change having been effected in the school record or in the matriculation certificate.

..... Each authority is competent to take an independent decision in the matter on the basis of its own satisfaction and judgement after taking into account the evidence produced before it. But the appointing authority will be perfectly within its right to refuse to make a corresponding change in the service record merely on the basis of the decision of the University or School authorities, and it is open to it to ask for independent or additional evidence before permitting the change or, for sufficient cause, refuse to make the change altogether."

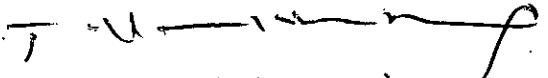
12. The observation of the said Judgement apply on all fours to the facts of this case. So we are of the opinion that the respondents were within their right in refusing to make a corresponding change in the service record of the applicant on the basis of the corrected date of birth of the applicant in his SSLC Register. It is needless to point out that the material placed before the competent authority of the Andhra Pradesh for getting altered date of birth of the applicant should satisfy this Tribunal also. The authorities who corrected the date of birth in the SSLC Register seem to have acted on the very same material placed before this Tribunal viz. the birth extract and declaration of the father of the applicant. We have already said that neither the birth extract nor the declaration of the father would advance the case of the applicant in accepting the date of birth of the applicant as 16-11-1939. ~~So, absolutely~~ ^{acceptable} there is no material to show in this case that the date of birth of the applicant is 16-11-1939.

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13. Number of proceedings relating to the alteration of the date of birth of the applicant are filed before this Tribunal. None of them is relevant in deciding the question in controversy. The said correspondence of the applicant with the different authorities ~~does~~ did not advance the case of the applicant to show that ~~his~~ date of birth is 16-11-1939.

14. We see no merits in this OA and is liable to be dismissed. We accordingly dismiss the OA leaving the parties to bear their own costs.


(T. CHANDRASEKHARA REDDY)
Member (Judl.)

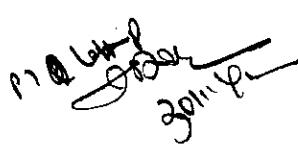

Date : November , 92


Deputy Registrar

To

1. The Secretary, Union of India,
sk Ministry of Railways, New Delhi.
2. The General Manager, S.C.Rly, Secunderabad..
3. The Secretary to Govt. Govt. of A.P.,
Education Department, Secretariat, Hyderabad.
4. The Financial Advisor & Chief Accounts Officer,
S.C.Railway, Railnilayam, Secunderabad.
5. One copy to Mr. D.V. Bhadram, Advocate
Block No.16, Flat.14, Baghlingampally, Hyderabad.
6. One copy to Mr. N.R. Devraj, SC for Rlys, CAT.Hyd.
7. One copy to Mr. D. Panduranga Reddy, Spl. Counsel for A.P. Govt. CAT
Hyd.
8. One spare copy.

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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR.

AND

THE HON'BLE MR.

A SUBRAMANIAN : M(A)

THE HON'BLE

CHANDRASEKHAR REDDY :
M(JUDL)

AND

THE HON'BLE

R.C.J. ROY : MEMBER (JUDL)

4-11-1992

JUDGMENT :

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

O.A. No. in

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T.A. No.

(wp. No)

Admitted and interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected

No orders as

