

(29)

CAT/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 375/91
T.A. No.

198

DATE OF DECISION 2 January, 1992.

A. Azeez Khan

Petitioner

Shri Y.G.Rama Murthy

Advocate for the Petitioner(s)

Versus

The Collector of Central Excise,
Oppo. Lal Bahadur Stadium, Hyd-29.

Respondent

Shri N.R.Devraj

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. T.CHANDRASEKHAR REDDY : MEMBER (J)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

MGIPRRND-12 CAT/86-3-12-86-15,000

(TCSR)
M(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA 375/91

Dt. of order 2nd Jan 1992

A. Azeez Khan

...Applicant

Vs.

1. The Collector of Central Excise,
Opp: Lal Bahadur Stadium, Hyd-29.
2. Central Board of Excise & Customs,
represented by its Secretary, Ministry
of Finance, North Block, New Delhi

...Respondents

Counsel for the Applicant : Shri Y.G. Rama Murthy

Counsel for the Respondents : Shri N.R. Devraj.

CORAM:

THE HON'BLE SHRI T. CHANDRASEKHAR REDDY : MEMBER (J)

(Order of the Single Bench delivered by Hon'ble
Shri T.C. Reddy, Member (J))

This application is filed under section 19 of the A.T. Act, 1985 to direct the Respondents to correct the date of birth of the applicant as 7-6-35 as against the existing date of birth as 5-6-34 in the service record of the Applicant and to direct the Respondents to retire him on the basis of his date of birth as 7-6-35.

2. The facts giving rise to this application in brief may be stated as follows:

The applicant studied in Telengana area of the old Hyderabad where the Persian Fasli Calendar was in vogue. According to the Persian Fasli Calendar in the then school register, the date of birth of the applicant was recorded as 1st Amerdad, 1344, Fasli and this was wrongly equalised

T. C. Reddy

..2..

30/1

by the school authorities with the Gregorian (Eswi) calendar as 5-6-34 and the same date 5-6-34 was also recorded in the service record of the applicant as his date of birth. The applicant has also approached the competent authorities before approaching this Tribunal for correction of his date of birth from 5-6-34 to 7-6-35. The said request of the applicant had been negatived by the authorities. Hence, the present application for the relief as indicated above.

3. Counter has been filed by the Respondents opposing the application.

4. Annexure-A is the certificate issued by the Board of Secondary Education. As per the said Annexure-A, it was certified that the applicant had passed the Higher Secondary Certificate Examination held in the month of March, 1953, and that he was a student of Government High School, Nampalli, and his date of Birth was 5-6-34. Exhibit-B is the certificate issued by the Principal of Government Junior College for Boys, Hyderabad, stating that the date of Birth of Sri Abdul Aziz Khan (applicant herein) is 1st Amardad 1344, Fasli / 5th June 1934 AD. The learned counsel for the applicant has taken me through the Diclott calendar for the dates in question. I have gone through the correlation in the said Diglot calendar to ascertain the equivalent date for 1st Amardad 1934 as per the Christian dates. With regard to the date written in Urdu 1st Amardad, 1344 Fasli, as could be seen from the said Diglot Calendar, the correct equivalent entry as per the Christian date would be 7-6-35. So, it is the contention of the learned counsel for the applicant that by mistake in the school records, the date of

T. C. R.

2
10/2

birth of the applicant which is 1st Amardad 1344, Fasli, had been wrongly correlated as 5-6-34 AD and the same was entered in the service record also and that it would be just fair and proper to direct the Respondents to alter the date of birth of the applicant as 7-6-35 in the service record of the applicant. The entire argument of the learned counsel for the applicant is based only on the basis of the date of birth entry in the school register which according to him should have been 7-6-35 instead of 5-6-34. To accept the statement that the applicant's date of birth as 7-6-35, this Tribunal requires clinching, acceptable and reliable documentary evidence. No material is placed before me to show that the correct date of birth of the applicant is 7-6-35. No explanation is coming forth as to why the birth extract of the applicant has not been obtained and the same has not been produced before this Tribunal. From the mere certificate that had been issued by the Principal of Government Junior College that the date of birth of the applicant entered in the register as 1st Amardad 1344 Fasli, I am not prepared to issue a direction to the Respondents for change of date of birth of the applicant to 7-6-35 as in my view, the said certificate issued by the College Principal is a weak piece ^{of} ~~as the~~ evidence, that cannot be relied and acted upon. It is not made known on what basis the 1st Amardad 1344 was entered in the school register as the date of birth of the applicant. Hence, in the absence of reliable and acceptable evidence that the applicant's date of birth is 1st Amardad 1344 Fasli, I am not prepared to accept the contention of the counsel for the applicant that the applicant's date of birth is 7-6-35.

Admittedly, the applicant has joined the service in the year 1955. The applicant had remained silent nearly for 35 years without taking steps to get his date of birth corrected

and as such, the applicant is guilty of negligence, inaction and latches. In view of the negligence, inaction and latches on the part of the applicant, I am not prepared to allow this application. For all the reasons mentioned above, this application is liable to be dismissed and accordingly the O.A. is dismissed with no order as to costs.

T. Chandrasekhar Reddy
(T. CHANDRASEKHAR REDDY)

Member(J)

Dated 2 January, 1992

Dy. Registrar(Judl.) 10/92

Copy to:-

1. The Collector of Central Excise, Opp: Lal Bahadur Stadium, Hyd-29.
2. Secretary, Ministry of Finance, Central Board of Excise & Customs, North Block, New Delhi.
3. One copy to Shri. Y.G.Rama Murthy, advocate, 29, "Ayodhya", Mehdiapatnam, Hyderabad: 500 028.
4. One copy to Shri. N.R.Devraj, Addl.CGSC. CAT,Hydbad.
spare
5. One/copy.

Rsm/-

Handwritten notes and signatures at the bottom left corner.

O.A. 375/91

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.

:V.C

AND

THE HON'BLE MR.

M(J)

AND

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

AND

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

DATED: 2/1/ -1992

ORDER/JUDGMENT: ✓

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

O.A.No.

in

375/91

T.A.No.

(W.P.No.)

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions

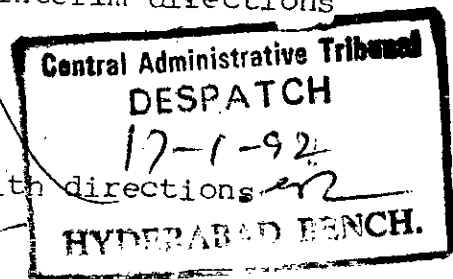
Dismissed. ✓

Dismissed as withdrawn.

Dismissed for Default.

M.A.Ordered/Rejected

No order as to costs:



pvm