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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.755/91.

Date of Judgment 31st Oct '91.

Khaja Moinuddin

.. Applicant

Vs.

1. The Union of India,
represented by the
Registrar General of India,
Census,
New Delhi.

2. The Director of Census
Operations,
Hyderabad.

.. Respondents

Counsel for the Applicant : Shri J.V.Lakshmana Rao

Counsel for the Respondents : Shri N.V.Ramana, Addl. CGSC

CORAM:

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

Hon'ble Shri T.Chandra Sekhar Reddy : Member(J)

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

This application has been filed by Shri Khaja Moinuddin under section 19 of the Administrative Tribunals Act, 1985 against the Union of India, represented by the Registrar General of India, Census, New Delhi and another. The prayer herein is to change his date of birth from 6.10.1933 to 6.10.1938 as per the birth extract furnished.

2. The applicant joined the Census Department in 1962. He made a representation on 7.7.87 to change his date of birth from 6.10.1933 to 6.10.1938. This request was rejected by the respondents vide their letter dated 26.4.88 on the ground that it does not satisfy the conditions laid down in Note 5 under F.R.56. The applicant filed a civil suit which was numbered as O.S.S.R.No.15491/89 and this was finally returned by the court on 24.7.91 for filing the case in the appropriate

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court, for want of jurisdiction. In this application he prays that the date of birth be changed from 6.10.1933 to 6.10.1938.

3. The respondents have filed a counter affidavit and oppose the prayer. It is pointed out by them that the application is premature and barred by limitation. According to them, the applicant submitted a representation on 13.8.87 for alteration of his date of birth to the District Education Officer, Mahabubnagar and the District Education Officer had replied him on 22.8.87 suggesting to submit the application for alteration of date of birth in the H.S.C. certificate with the required documents through the Head of the Institution where he had last studied, to the concerned M.R.O. who, in turn, after conducting an enquiry will take up the matter with the Collector. The applicant, instead of following the prescribed procedure was cited above has filed the present application seeking a direction. It is also pointed out by them that the impugned order is dated 26.4.88 and the application filed in August, 1991 is barred by limitation. According to the entry made in the Service Book of the official, his date of birth is 6.10.1933 and the individual has affixed his signature on 3.10.1967 having accepted ~~to~~ the entries made in the first page of the Service Book. In June, 1977 before the confirmation of his service he submitted an attestation form and the details of his family and in that again he has indicated his date of birth only as 6.10.1933. After 25 years of service, in June, 1987 he submitted a representation seeking a change in date of birth enclosing a copy of the certificate of birth issued by the Municipal Corporation of Hyderabad

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according to which his date of birth is 6.10.1938. After examining the matter, the first respondent rejected the representation stating that the request of the individual cannot be acceded to as it does not satisfy the conditions laid down in Note 6 of F.R.56. It is also pointed out that the date of birth entered in his H.S.C. certificate is only 6.10.1933. Further, it is pointed out that the birth certificate issued by the Municipal Corporation of Hyderabad was not taken from the original record of birth, from the register pertaining to the year in which the birth of the applicant has taken place and that it was based on Special Magistrate's order dated 28.4.87. They question the validity of this certificate.

4. We have examined the case and heard the learned counsel for the applicant and the respondents. Regarding the preliminary objections of the respondents we find that in-as-much as the application had been admitted we shall not go into the question whether it is premature or not. As regards, the limitation, the applicant had filed a suit in the City Civil Court and the same was returned to him only in July, 1991 as they did not have jurisdiction. The applicant cannot, therefore, be blamed for the delay. We, therefore, hold that this application does not attract limitation. As regards the reason for the respondents rejecting the case, we are unable to sustain the reason because it had been held by this Tribunal as well as the Supreme Court that the respondents cannot reject the case on the ground that it does not comply with Note 6 of F.R.56. We shall, therefore, ^{go} have ~~to~~ into the merits of the case.

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Copy to:-

1. Registrar General of India,
Census,
Union of India.
New Delhi.
2. The Director of Census Operations,
Hyderabad.
3. One copy to Shri. J.V.Lakshmana Rao, Flat No.
301, Balaji Towers, New Bakaram, Hyderabad.
4. One copy to Shri. N.V.Ramana Addl.CGSC, CAT,Hyd-bad.
5. One spare copy.

Rsm/-

Dis. 2/10/71
2/11/71
7/11/71 C.O

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5. The entry in the H.S.C. certificate shows the date of birth as 6.10.1933. Again, by his own admission the date of birth entered in the Service Book is only 6.10.1933. After 25 years of service the applicant produces a certificate dated 2.5.87 issued by the Municipal Corporation of Hyderabad. It had been held by this Tribunal in several cases that alteration of date of birth made on the basis of Primary and Matric certificates cannot be altered after more than 20 years on the basis of birth register [1989] 9 ATC 540. ~~It had also been held that the date of birth recorded on employee's own declaration and accepted by him he is estopped from challenging it. In another judgment, the Jabalpur Bench of this Tribunal [1987(3) SLR 696 CAT Jab. which was held that the certified copies of the date of birth obtained after 40 years of leaving the school and 24 years of service was not acceptable. In another case, the Principal Bench of this Tribunal in 1987(3) SLR 217 CAT : Delhi had held that Matriculation certificate is the best officially recognised authority for fixing the date of birth. In view of the several judgments cited above, we feel that the applicant has no case for change of date of birth and we, therefore, dismiss the application with no order as to costs.~~

R. Balasubramanian
 (R. Balasubramanian)
 Member(A).

T. Chandra Sekhar Reddy
 (T. Chandra Sekhar Reddy)
 Member(J)

Dated 31st October 91

[Signature]
 Deputy Registrar (Judl.)

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[Handwritten mark]