

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

ORIGINAL APPLICATION NO.976/91

DATE OF JUDGEMENT: 9/4/1992

BETWEEN

Sri Ch.Venkateswar Rao

.. Applicant

A N D

1. The Secretary, Govt. of India
Min. of Finance, Deptt. of Revenue
New Delhi.
2. The Collector,
Customs and Central Excise,
Guntur.
3. The Collector of Customs & Central Excise,
Hyderabad .. Respondents

Counsel for the Applicant

: Smt S.N. Deo

Counsel for the Respondents

: Sri V. Rajeswara Rao for
Sri NV Ramana, Addl.CGSC

CORAM:

THE HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

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T. - C. Reddy

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JUDGEMENT OF THE SINGLE MEMBER BENCH DELIVERED BY
THE HON'BLE SHRI T.CHANDRASEKHARA REDDY, MEMBER (JUDL.)

This is an application filed by the applicant herein under Section 19 of the Administrative Tribunals Act, to direct the respondents to correct the date of birth of the applicant from 4.10.1933 to 6.8.1935 in his service records and to retire him from service on the basis of his correct date of birth.

The facts giving rise to this OA in brief may be stated as follows:

1. At the time of filing this OA (the OA was filed on 14.10.1991) the applicant was working as Superintendent in Central Excise, Customs Office at Guntur. At the time of joining the Central Excise Department in 1956, the applicant's date of birth was recorded as 4.10.1933.
2. On 15.4.1985, the applicant submitted a representation to the District Educational Officer enclosing his birth extract and S.S.L.C. Register bearing R.No.15528 requesting the educational authorities to make necessary correction of the applicant's date of birth in the S.S.L.C. Register of the applicant. After series of representations, the application of the applicant along with SSLC Register and birth extract was forwarded to the Joint Secretary to the Commissioner for Government Examinations, Andhra Pradesh Hyderabad. The Joint Secretary to the Commissioner for Government Examinations, Andhra Pradesh, Hyderabad corrected the date of birth of the applicant from 4.10.33 to 6.8.35. After the date of birth of the applicant in SSLC Register was corrected from 4-10.33 to 6.8.35, the applicant had put in series of representations and appeals for correction

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of date of birth in his service records, in accordance with the correction carried out in the SSLC Register from 4.10.33 to 6.8.35. The applicant's representations were rejected by the respondents. Hence, the present OA is filed by the applicant herein for the reliefs already indicated above.

3. The respondents have filed counter opposing this OA.

4. During the course of hearing this OA, the applicant produced before us his SSLC Register wherein ^{of} ~~had been~~ the date of birth of the applicant ~~was~~ corrected from 4.10.33 to 6.8.35 and on the basis of the corrected date of birth in SSLC Register the learned Advocate for the applicant contended ~~whereas~~ that a suitable direction may be given to the respondents to correct the date of birth of the applicant accordingly in the service register.

5. The correction of date of birth in the SSLC Register of the applicant by the said Joint Secretary to the Commissioner for Government Examinations, AP, Hyderabad should have been a speaking order. Principles of natural justice require a 'speaking order' because that order should make clear on what basis the said Joint Secretary to the Commissioner of Government Examinations had acted in correcting the date of birth of the applicant from 4.10.33 to 6.8.35. No such order is placed before us except the SSLC Register of the applicant showing the correction of ^{from} the date of birth of the applicant 4.10.33 to 6.8.35. As the date of birth of the applicant is corrected as 6.8.35

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by the Joint Secretary to the Commissioner of Government Examinations, it does not automatically mean that the correct date of birth of the applicant is 6.8.1935. As already pointed out, we are unable to understand the reasons that weighed for correcting the date of birth of the applicant by the said Joint Secretary to the Commissioner of Government Examinations, AP, Hyderabad from 4.10.33 to 6.8.1935. Hence, we are not prepared to accept the fact that the corrected date of birth of the applicant as 6.8.35 by the Joint Secretary to the Commissioner of Government Examinations, AP, Hyderabad as the correct date of birth.

6. Nevertheless, it was open for the applicant to produce before us the same material that was placed before the Joint Secretary to the Commissioner of Government Examinations, AP, Hyderabad to convince that the correct date of birth of the applicant is 6.8.1935. No doubt, it is contended that the birth extract of the applicant had been filed before the said Joint Secretary to the Commissioner of Government Examinations which had been accepted to be genuine and on that basis the date of birth of the applicant had been corrected. The applicant should have produced the same birth extract before us and proved that the said birth extract related to the applicant and the correct date of birth of the applicant is 6.8.1935 according to the birth extract.

7. As a matter of fact, in the application it is not at all pleaded with regard to the number of issues to the parents of the applicant and whether the applicant herein is the first issue or second issue etc. As already pointed out, as no birth extract of the applicant is filed before us

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and proved before us that the date of birth contained in the said birth extract is 6.8.1935 and that it relates to the applicant, we are unable to give any relief to the applicant in this case. To sum up in one sentence, this is a case where there is no legal evidence at all to show that the date of birth of the applicant is 6.8.1935. We may clarify that the correction of date of birth in the SSLC Register from 4.10.1933 to 6.8.1935, is only an administrative Act of the said Joint Secretary to the Commissioner for Government examinations, AP, Hyderabad that too, that had been done in the absence of any 'speaking order'. So, as already pointed out, the corrected date of birth 6.8.1935 in the SSLC Register of the applicant, in the circumstances of the case, cannot have any legal value. In this context, it will be worthy to note a decision reported in 1989(2) SLJ CAT 195 (Simla) - Dharam Pal Sharma Vs State of H.P and another - wherein it is laid down as follows:

"There is no rule of law which binds the University authorities to change the date of birth entered in the Matriculation certificate merely because a subsequent change in the school records is allowed by the school authorities. Nor is it incumbent on the appointing authority to act blindly upon any alteration in the date of birth made by the University or the school authorities in the matriculation certificate or school record. (emphasis supplied) Each authority is competent to take an independent decision on the basis of its own satisfaction and judgement after taking into account the evidence produced before it. If the University allows after due consideration a change in the date of birth shown in the matriculation certificate, it will no doubt have some persuasive value. But the appointing authority

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3. The Collector of Customs & Central Excise, Hyderabad.
4. One copy to Sri. S.N.Deo, advocate, CAT, Hyd.
5. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
6. One spare copy.

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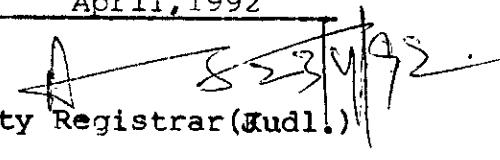
(64)

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 ask for independent or additional evidence
before permitting the change or for sufficient
cause, refuse to make the change altogether.
(emphasis supplied)

8. From the above said judgement, it is quite evident that the applicant does not have any automatic right for getting the date of birth corrected in the service records on the basis of the corrected date of birth in the SSLC Register and the respondents are within their limits to refuse to make the required change in the alteration of date of birth. Hence, as already pointed out, no evidence is placed before us by the applicant to show that the correct date of birth of the applicant is 6.8.1935. So, we see no merits in this OA and this OA is liable to be dismissed and is accordingly dismissed. In the circumstances of the case, we direct the parties to bear their own costs.


(T. CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 9 April, 1992


Deputy Registrar (Judl.)

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TYPED BY

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COMPARED BY

CHECKED BY

APPROVED BY

THE HON'BLE MR.

V.C.

AND

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

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY :
MEMBER (JUDL)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 9/4/1992.

ORDER / JUDGMENT

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

O.A. No.

976/91

T.A. No.

(W.P. No.)

Admitted and interim directions
issued.

Disposed of with directions

Dismissed

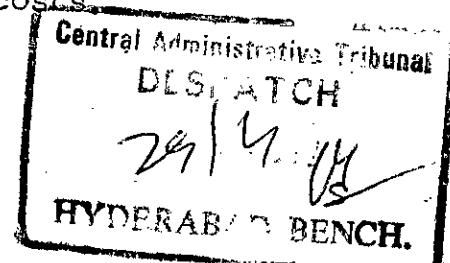
Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/Rejected.

No order as to costs.

pvm.



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