

(26)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.369/92

Date of Order: 12-3-93

BETWEEN:

Telugumalla Kasamma

.. Applicant.

A N D

1. Director, D.R.D.L.
Kanchanbagh, Hyderabad.
2. Administrative Officer,
D.R.D.L., Kanchanbagh,
Hyderabad.
3. Senior Administrative Officer
Dr.1, D.R.D.L., Kanchanbagh,
Hyderabad.

.. Respondents.

Counsel for the Applicant

.. Mr. P.V.S.S. Rama Rao

Counsel for the Respondents

.. Mr. M.Jaganmohan Reddy

COURT:

HON'BLE SHRI K.BALASUBRAMANIAN, MEMBER (ADMN.)

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

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Judgement of the Division Bench delivered by
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 (a) to declare the date of birth of the applicant as 24.6.1942 (b) to direct the respondents to continue the applicant in service till she attains the age of 60 years on the basis of her date of birth as 24.6.1942. (c) to pass such other order or orders as may deem fit and proper in the circumstances of the case. The facts giving rise to this O.A. in short are

as follows:-

2. The first respondent in this O.A. who is the Director, Defence Research and Development Laboratory, Kanchanbagh, Hyderabad appointed the applicant as Sweeper on 22.6.1972. The applicant is an illiterate lady. On the basis of the medical certificate produced by the applicant, the date of birth of the applicant was entered as 24.6.1932 in her Service Record. According to the applicant her correct date of birth is 24.6.1942. It is also the case of the applicant that the respondents due to mistake might have recorded her date of birth as 24.6.1932 in her Service Record instead of 24.6.1942. On the basis of the date of birth of the applicant as 24.6.1932 the applicant had been retired a w.e.f. 30.6.1992.

3. While in service the applicant had put in a representation that she was aged only 29 years on the date of her appointment in the year 1972 and that she was to be retired only in the year 2002 and requested the respondents to amend her date of birth in her Service Record suitably. The respondents by their proceedings dt 26.1.1992 in I.O.N. No. DRDL/Pers/1161/IE informed the applicant that the appointing authority had come to the

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conclusion that the date of birth recorded in the Service Register as 24.6.1932 is correct that the applicant would stand retired from Government service w.e.f. 30.6.1992 after attaining the age of superannuation. Aggrieved by the proceedings Dt. 22.1.1992 issued by the respondents in I.O.N. No.DRDL/Pers/1161/IE, the applicant had filed the present O.A. for the relief as already indicated above.

4. The respondents have filed their reply to this O.A.

5. Mr. M.Jagan Mohan Reddy, Standing Counsel for the respondents had made available the Personal file of the applicant as well as Service Register.

6. We have heard in detail Mr. PV.S.S.S.Rama Rao, Advocate for the applicant and Mr.M.Jagan Mohan Redddy, Standing Counsel for the respondents. We have also perused the personal file and Service Register of the applicant.

7. According to the applicant her correct date of birth is 24.6.1942. At the time of the applicant entered in service the date of birth of the applicant had been entered as 24.6.1932 in her Service Record. As it is the case of the applicant that her correct date of birth as 24.6.1942 heavy burden is cast on the applicant to show that her correct date of birth is 24.6.42. The applicant has not filed her birth extract to show that her correct date of birth is 24.6.1942. The explanation offered is that the applicant comes from a ~~poor~~ family and that she is an illiterate and so ~~she is~~ not able to produce her birth extract. The applicant has also not produced before us any material to show that her correct date of birth is 24.6.1942. So, it has become necessary to dispose of this O.A. with the available material.

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8. If the correct date of birth of the applicant is 24.6.92 as contended by her, then the applicant should have been just 30 years at the time of her entry into service. The record discloses that, at the time of her appointment, the relaxation of the age had been given to the applicant from 30 years to 40 years. So, if the date of birth of the applicant has been accepted by the respondents as 24.6.42, we are unable to understand why the relaxation of age with regard to her appointment from 30 years to 40 years would have been given by the competent authority. So, this circumstance clearly indicates that the applicant had been aged more than 30 years at the time of her appointment.

9. At the time of her appointment, the applicant had produced the medical certificate dated 24.4.1972 from the Civil Surgeon and Superintendent, Govt. Hospital, Nampally, Hyderabad. No doubt the Superintendent had certified therein that by her appearance that the applicant was aged about 29 years. It is the contention of the applicant, that on the basis of the said certificate that her date of birth is liable to be corrected as 24.6.42 as she was aged only 29 to 30 years at the time of her entry into service. But the record discloses that the said certificate was not accepted by the appointing authority, as the appointing authority was not satisfied with the assessment of the age of the applicant assessed by the concerned medical officer, and, in the opinion of the appointing authority, the applicant was aged more than 30 years. Therefore, the appointing authority had sent the applicant for the second medical opinion for determining the correct age of the applicant. So, another certificate dated 24.6.72 was produced by the applicant that was issued by the Civil Surgeon and Superintendent Govt. Hospital Nampally, Hyderabad certifying that the applicant was aged 40 years as on 24.6.1972. This second certificate dated 24.6.1972 was accepted by the appointing authority as the date of

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birth of the applicant as 24.6.42 and on approval, the age of the applicant was relaxed for her appointment from 30 years to 40 years under Article 51 CSR Vol.I. Accordingly, Daily Order Part-II No.82/B was also published on 1.8.1972. Based on this Daily Order Part-II, her date of birth was recorded in the service book and the applicant had also affixed her finger impressions in token of having verified the entries in the Service Book and certified as such. So, in view of what had taken place in the year 1972 at the time of her appointment with regard to her age, it is not open now for the applicant to contend that she was aged about 30 years at the time of her appointment. So, at the time of her appointment, as the date of birth of the applicant had been accepted by the appointing authority as 24.6.32, it is also not open for the applicant at this stage to go back on the accepted date of birth of the applicant as 24.6.42 at the time of entry into service and contend that her date of birth is 24.6.42. As already pointed out, absolutely there is also no proof in this case that the date of birth of the applicant is 24.6.42. In view of this position, the OA is liable to be dismissed.

10. In view of the medical certificates referred to above which are of April, 1972 and June 1972 which are also contradictory with regard to the age of the applicant, the counsel for the applicant pleaded vehemently that by appearance also, the applicant's age will not be more than 50 years and so, he would make the applicant appear before this Bench to draw proper conclusions with regard to the age of the applicant after seeing her. So, in view of the submissions made by the counsel for the applicant on 25.11.92 we passed an order permitting the applicant to appear before ~~and allowing the applicant to appear before the bench~~ this Bench on 23.2.93. By appearance, it was evident that

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Copy to:-

1. Director, D.R.D.L., Kanchanbagh, Hyderabad.
2. Administrative Officer, D.R.D.L., Kanchanbagh, Hyderabad.
3. Senior Administrative Officer Dr.1, D.R.D.L., Kanchanbagh, Hyderabad.
4. One copy to Sri. P.V.S.S.S.Rama Rao, advocate, 304 Ashoka Chambers 5-9-22/1/1, Adarshnagar, Hyd.
5. One copy to Sri. M.Jagan Mohan Reddy, Addl. OGSC, CAT, Hyd.
6. One spare copy.

Rsm/-

the applicant was aged more than 55 years. As a matter of fact, the applicant seemed to be walking with some difficulty probably due to her age. So, Mr Rama Rao, counsel for the applicant very fairly ~~xxx~~ represented that the matter may be decided after perusing the records pertaining to the applicant in this OA. So, as the applicant appears to be more than 55 years of age, the fact that the date of birth of the applicant is 24.6.42 cannot be accepted at all. Once date of birth of the applicant as 24.6.42 cannot be accepted, this OA has got to be met with the result of dismissal.

11. In the service register of the applicant, ^{where} ~~written~~ date of birth of the applicant is ~~indicated~~, there is scoring of the date of birth of the applicant and a fresh writing with regard to the date of birth of the applicant ~~is seen~~. The scoring of the date of birth of the applicant does not lead to any suspicion as we are of the opinion that the applicant's age had been ascertained as 24.6.42 at the time of her appointment and which date was also entered in the service register of the applicant.

12. For all the reasons mentioned above, this OA is liable to be dismissed and is accordingly dismissed leaving the parties to bear their own costs.

R.Balasubramanian

(R.BALASUBRAMANIAN)
Member (Admn)

T.C. — — —
(T.CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 12 March, 1993

sd/mvl

8/29/88
Dy. Registrar (Judl.)

(contd. - - 7) -

O.A. 369/92

TYPED BY *805* COMPARED BY
CHECKED BY *7* APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. K. BALASUBRAMANIAN :
MEMBER (ADMN)

AND

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

DATED: 12/3/-1993

ORDER/JUDGMENT

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

in 369/92

O.A. No.

T.A. No.

(W.P. No.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

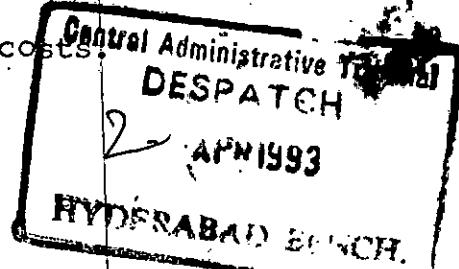
Dismissed as withdrawn.

Dismissed

Dismissed for default.

Ordered/Rejected.

No order as to costs.



pvm