

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO. 582/92

DATE OF JUDGEMENT:

Between

B. Muni Reddy

and

:: Applicant

1. The Sub-Divisional Inspector (Postal)
Chittoor (South) Sub-Division
Chittoor

2. The Postmaster
Head Post office,
Chittoor Division
Chittoor

3. The Sr. Supdt. of Post Offices
Chittoor Division
Chittoor

Counsel for the Applicant : Shri Krishna Devan

Counsel for the Respondents : Shri NV Remana

CORAM:

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

JUDGEMENT

This is an application filed under Section 19 of the Administrative Tribunals Act, to direct the respondents to incorporate the date of Birth in the service records of the applicant as 19.6.1943 instead of 1.7.41 and pass such other orders as may deem fit and proper in the circumstances of the case.

2. The facts giving rise to this OA in brief, may be stated as follows.

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3. The applicant has been working in the Department of posts as Extra Departmental Mail Carrier/Delivery Agent w.e.f. 7.7 1967. At the time of entry into service, due to some error, the date of birth of the applicant had been entered in the service records as 1.7.1941.

4. In the year 1983, the applicant sought permission to appear in the Departmental examination for the post of postman. On the basis of the applicant's date of birth that was entered in the service records, the competent authority did not permit the applicant to appear in the said examination to the cadre of postman on the grounds, that the applicant was over-aged. Subsequently, the applicant obtained birth extract dated 17.11.83 issued by Sub-Registrar and Registrar of Births and deaths Chittoor and certificate dated 28.7.88 issued by Mandal Revenue Officer, Gangadhara, Nellore, and submitted the same to the Sub-Divisional Inspector (Postal) South Sub-Chittoor/Division who issued a corriegendum dated 19.12.90 that the date of birth of the applicant is revised as 19.6.1943 and with a direction that necessary corrections are to be made in the relevant records. After getting the date of birth revised as 19.6.43, the applicant in the year 1992 made attempts to sit for the said departmental examination for promotion to the cadre of postman and as such applied for the same on 3.6.92. The respondents again did not permit the applicant for the said examination on the grounds of overage basing on the date of birth of the applicant which was found ^{as} 1.7.41 in the office records. The applicant on 3.6.92 made representation to the Sr. Superintendent of PostOffices, Chittoor Division, Chittoor, (3d respondent herein) stating that the date of birth of the ^{as} 1.7.41, by the Sub-Divisional Inspector, Postal Sub Division Chittoor and sought permission to appear in the said examination. But the applicant was

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not permitted to appear for the said examination on the same grounds, namely that the applicant was over-aged. So, the present OA is filed for the relief(s) as indicated above.

5. Counter is filed by the respondents opposing this OA.

6. We have heard Mr Krishna Devan, Counsel for the applicant and Mr NV Ramana Standing counsel for the respondents.

7. According to the applicant, his date of birth is 19.6.1943, and that the date of birth recorded as 1.7.41 in the service records does not reflect the correct date of birth of the applicant. At the time of appointment, the applicant had furnished descriptive particulars. In his descriptive particulars, at the time of his appointment, the applicant had given his date of birth as 1.7.1941. Except saying in the OA that some error had crept in while recording the date of birth of the applicant in his service records, it is not explained how, on what basis the applicant in his descriptive particulars had given his own date of birth as 1.7.41. The applicant is an educated person.

No errors or mistakes had been committed in recording the date of birth of the applicant.

The respondents had recorded the date of birth of the applicant as 1.7.1941 on the basis of the material furnished by the applicant, at the time of his appointment. So we are not inclined to believe that the date of birth of the applicant is not 1.7.1941.

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8. Even taking for argument's sake that the correct date of birth of the applicant, due to some mistake or other had not been recorded correctly at the time of his appointment, burden is heavily cast on the applicant to show that correct date of birth of the applicant is 19.6.1943 as contended by him and not 1.7.41 as recorded in the service register. The applicant to substantiate his contention that his correct date of birth is 19.6.43 had filed a copy of Extract from the Register of Births issued by Sub-Registrar & Registrar of Birth & Deaths, Chittoor where in date of birth of the child is shown as 19.6.43 and ~~that~~ the residence of the parents as Balagangana palle that and the father of the child is Boggula Muni Reddy and the mother of the child is Pa~~pp~~amma and that the name of the Child is 'Munasai Reddy'. As could be seen from the descriptive particulars of the applicant in this OA, the applicant is called as B. Muni Reddy. As already pointed out, in the birth extract, the name of the child is mentioned as 'Munasai Reddy'. So, the name of the applicant herein, does not at all tally with the name of the child mentioned in the birth extract dated 17.11.83 issued by Sub-Registrar and Registrar of Births and Deaths. So, in view of this position, it is highly doubtful whether the birth extract that is filed is correct in respect of the applicant.

9. The applicant has also filed a copy of the certificate dated 28.7.88 issued by Mandal Revenue Officer Ganganapalle, stating that Sri E. Muni Reddy S/o Boggala Muni Reddy of Balagangannapalle who is working as Extra-palli Branch post office is also being called by the name

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Munaswami Reddy and that the name of Munaswamy Reddy ~~as~~ mentioned in the birth certificate dated 17.11.83 issued by the Sub-Registrar and Registrar of Births and Deaths Chittoor is that ^{one} _{the} and the same person-B. Muni Reddy ~~is~~ at present ~~employed~~ in the above said post office at Balaganganapalli Village as ^{such} per revenue enquiry. So, ~~on the basis of the certificate~~, it is strongly contended on behalf of the applicant that a ~~joint~~ reading of the contents in the extract of birth register and the said certificate issued by the Mandal Revenue Officer would make it more than clear that the birth extract related only to the applicant ~~as~~ the applicant is also called by the alias name Munaswamy Reddy and so, the date of birth ~~is~~ as mentioned in the above documents ~~as~~ 19.6.43 has got to be accepted.

10. If the applicant is ~~said~~ called by alias names Munaswamy Reddy, then the applicant should have specifically pleaded in the OA that even though the name of the applicant is Muni Reddy, that he is also called ~~as~~ Munaswamy Reddy. Such plea is not at all taken by the applicant. It is only during ~~arguements~~ that the learned counsel for the applicant contended that the applicant had also alias name ~~by saying~~ Munaswamy Reddy." ~~is~~

The child in the birth extract, whose name is mentioned as "Munaswamy Reddy, we are unable to understand how could turn out to be Muni Reddy. The name Munaswamy Reddy and Muni Reddy are two distinct ~~and~~ and separate names. In view of the discrepancy of the name ~~in the extract from the Register of Births~~ ~~with the name of the applicant~~ herein, and as already pointed out, as there is no pleading to show that the applicant is called by the alias name of Munaswamy Reddy, no credance can be given to the ~~is~~

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certificate issued by the Mandal Revenue Officer Gangadhara Nellore. Absolutely, no material is placed before us to show that the said certificate issued by the Mandal Revenue Officer as to what type of enquiries were made by him to ascertain that the extract from the Register of Births relates to the applicant. So, in the absence of any material to show that the said certificate had been issued by the Mandal Revenue Officer, after due enquiry, and as we are not satisfied that the said extract from the register of births relate to the applicant, that the date of birth of the applicant is 19.6.43, cannot be accepted. The said certificate issued by the Mandal Revenue Officer, by any stretch of imagination cannot be said to be a public document. The said certificate issued by the Mandal Revenue Officer, does not advance the case of the applicant in any way.

11. As already pointed out, the Sub-Divisional Inspector (Postal) South Sub Division Chittoor had issued a corrigendum fixing the date of birth of the applicant as 19.6.43. According to the learned counsel for the applicant, Sub-Divisional Inspector (Postal) was the competent authority been corrected by him, it was not open for the Superintendent of Post Offices, Chittoor to go back in not accepting the date of birth of the applicant as 19.6.43. It is the contention of the learned counsel for the applicant that, after accepting the date of birth of the applicant as 19.6.43, that the Senior Superintendent of Post Offices Chittoor

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should have admitted the applicant to appear for the said examination. He further contends that as the corrigendum was issued by the Sub-Divisional Inspector (Postal) fixing the date of birth of the applicant as 19.6.43 vide his orders dated 19.12.90 and as the said corrigendum has not ~~yet~~ been set aside, within six months from the date of the said order of Sub-Divisional Inspector, that it was not open for the Sr. Superintendent of Postoffices to brush aside the orders of the Sub-Divisional Inspector (Postal) dated 19.12.90 and not to act on the same. The learned counsel appearing for the applicant, in support of his argument relies on Rule 16 of Extra Departmental Agents conduct & Service Rules, 1964. The said rule so far relevant to decide this OA is extracted as hereunder:

"16. Review of Orders:

Notwithstanding anything contained in these rules

(i) xx xx xx xx

 xx xx xx xx

(ii) xx xx xx xx

(iii) an authority immediately superior to the authority passing the orders,

carries out any enquiry or meeting, otherwise review any order made under these rules, reopen the case and after making such enquiry as it considers necessary may

~~xx~~

a) confirm, modify or set aside the order

or

b) pass such orders as it deems fit:

Proviso	xx	xx	xx	xx	xx
	xx	xx	xx	xx	xx

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12. The EDA (Conduct & Service) Rules 1 to 26 are framed for the procedure to be followed as against EDAs in the departmental enquiries. The said EDA Rules are not applicable with regard to alteration of date of birth of the said employees. So, the orders relied upon by the learned counsel for the applicant has, absolutely no relevance to the facts of this case. Sr. Superintendent of Post Offices, who is the appellate authority, was not satisfied that the correct date of birth of the applicant was 19.6.43 and had rightly prevented the applicant from appearing in the said examination to postman cadre on the ground of overage. The Senior Superintendent of Post Offices, is also justified in not passing orders for correction of date of birth of the applicant as 19.6.43 on the basis of the corrigendum issued by the Sub-Divisional Inspector (POSTAL), South-sub-Division, Chittoor. There is no acceptable material before this Tribunal to prove that the correct date of birth of the applicant is 19.6.43. In view of this position, this OA is liable to be dismissed. In the result, as we see no merits in this OA, this OA is dismissed leaving the parties to bear their own costs.

T - C - Reddy
(T.CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 11th April, 1993

Deputy Registrar

To

1. The Sub-Divisional Inspector (Postal) Chittoor (South) Sub-Division, Chittoor.
2. The Postmaster, Head Post Office, Chittoor Division, Chittoor.
3. The Sr. Superintendent of Post Offices, Chittoor Divn, Chittoor.
4. One copy to Mr Krishna Devan, Advocate, CAT.Hyd.
5. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.Bench.
7. One spare copy.

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16/4/93

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CHECKED BY (8) 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. R.BALASUBRAMANIAN :
MEMBER (ADMN)

AND

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

DATED: 16 - 4 - 1993

~~ORDER~~ / JUDGMENT

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

in

O.A.No. 582/92

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.

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