

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

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O.A. 938/93.

Dt. of Decision : 8.6.94.

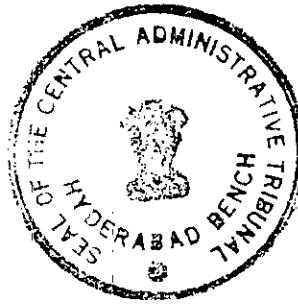
Raghavulu Nagaiah

.. Applicant.

Vs

1. The Chief Personnel Officer, Personnel Branch, S C Rly, Secunderabad.
2. The Divisional Railway Manager, (P) (BG), SG Rly, Secunderabad.
3. The Sr. Divisional Personnel Officer, SC Rly, Secunderabad.
4. The General Manager, SC Rly, Rail Nilayam, Secunderabad.

.. Respondents.



Counsel for the Applicant : Mr. Y. Vijayakumar

Counsel for the Respondents : Mr. C.V. Malla Reddy,
Addl. CGSC.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

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case. He further urged that the certificate issued by the Mandal Revenue Officer, Hatnura Mandal is authenticated one issued on the basis of the available records in the Mandal Revenue office.

6. A perusal of the letter dt. 20.4.1992/27.4.1992 issued by the respondents clearly indicate that the factors which are to be taken into account while deciding the case ~~has~~ ^{has} been taken note of. We see no proof of having sidelined the report of the Welfare Inspector while rejecting the representation by R-1. As a matter of fact, the letter quoted above, clearly indicates that the enquiry report of the Welfare Inspector has been perused as can be seen from para-4 of that letter. The Mandal Revenue Officer, Hatnura Mandal had issued the certificate dt. 17.1.1990 (page-3 of the material papers) based on the certification made by the Medical Officer, Government Ayurvedic Dispensary, Hatnoora. This certificate cannot be taken as irrefutable evidence to prove the applicant's date of birth as 1.12.1941. It is only an assessment of his age and not an authentic record to prove his exact age.

7. The Supreme Court held in IJT 1993(5) SC 404 - The Secretary & Commissioner Home Department and Ors. Vs. R.Kirubakaran [that the applicant has to produce the evidence in support of such claim of change of date of birth, which may amount to irrefutable proof relating to his date of birth. The onus of proof lies on the applicant that the date of birth is wrongly recorded in the Service Book. The relevant portion of the Judgment is reproduced below:-

"As such, unless a clear case on the basis of materials which can be held to be conclusive

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3. The respondents in their reply have stated that his request for change of date of birth has been rejected based on the report submitted by the Welfare Inspector who made discrete enquiries and also after perusing the documents submitted by him. The certificate issued by the Sarpanch of Doulathabad and the Mandal Revenue Officer, Hatnura Manda was got enquired by the Inspector of the Division. These certificates were issued mainly based on the statement of the party and on the basis of the assessment of the age ^{by the doctor} by the Medical Officer, Government Ayurvedic Dispensary, Hatnura. It is stated by the respondents that these are not authenticated certificates to come to the conclusion ^{of} that the change as sought for is genuine and is not fabricated. The respondents also state that no School Certificate indicating the date of birth of the applicant was produced or a certificate issued by the Municipal Authorities. His contention that he is an illiterate cannot also be accepted as he had studied in the School from 1945 to 1950 as seen from the Service Records. It is also stated that the applicant had signed in the Service Records as having accepted the details given therein. It is further submitted by the respondents that at the time of appointment itself he was able to affix his signature as seen from the first page of the Service Book and hence he cannot be considered as an illiterate.

4. We have heard the detailed arguments of both the sides.

5. The main contention of the applicant is that R-1 had sidelined the discrete enquiry report of the Welfare Inspector while coming to the conclusion in rejecting his

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Board Circular No.29/79, literate Class-IV employees were given six months time for seeking correction of date of birth which was open upto 31.7.1973. The applicant failed to avail the said opportunity given to him at that time. // As pointed out earlier, the contention that the Welfare Inspector's note has been side-lined while rejecting his case for change of date of birth by R-1 is also found to be incorrect. In view of the above, we gave another chance to the learned counsel for the applicant to produce the extract of the date of birth register from the concerned authorities. He has filed a sworn affidavit signed by the Sarpanch of Doutathabad. In this affidavit, it is clearly stated that the extract of the Birth Register could not be produced as that was destroyed. Birth Register is an important register to be maintained without destroying the same. Even, if it is destroyed for reasons beyond control, it has to be reported to the concerned authorities and there is no such evidence produced before us. Hence, the affidavit filed by the Sarpanch stating that the date of birth of the applicant is 1.12.1941 cannot be relied upon.

9. The applicant approached for change of date of birth at the fag end of service and as observed by the Supreme Court in I 1993 SCC(L&S) 375 - Union of India Vs. Harnam Singh that belated claims for alteration of date of birth do not merit any consideration.

10. For the reasons mentioned and circumstances explained above, the applicant has not made out any case for alteration

in nature, is made out by the respondent, the Court or the Tribunal should not issue a direction, on the basis of materials which make such claim only plausible. Before any such direction is issued, the Court or the Tribunal must be fully satisfied that there has been real injustice to the person concerned and his claim for correction of date of birth has been made in accordance with the procedure prescribed, and within the time fixed by any rule or order. If no rule or order has been framed or made, prescribing the period within which such application has to be filed, then such application must be filed within the time, which can be held to be reasonable. The applicant has to produce the evidence in support of such claim, which may amount to irrefutable proof relating to his date of birth. Whenever any such question arises, the onus is on the applicant, to prove about the wrong recording of his date of birth, in his service book."

8. From the above, it can be safely said that the Tribunal has to go slow in granting relief for ~~continuation in D.O.B.~~ ^{continuation in D.O.B.} ~~in-service~~ unless prima facie evidence of unimpeachable character is produced. Report of the Revenue Officer cannot be the sole basis for correcting the date of birth. The applicant herein relies solely on the certificate issued by the Mandal Revenue Officer, Hatnoora Mandal for changing his date of birth from 1.7.1936 to 1.12.1941. This certificate, as stated earlier, is not an authenticated one and was issued on the basis of certification made by the Medical Officer, Government Ayurvedic Dipsnesary, Hatnoora. It cannot also be said that the applicant is an illiterate. He had signed on the first page of the service book way back in the year 1961 when he joined service and this fact will clearly prove that he is not an illiterate, and that he has not been able to identify his date of birth written on the first page of the Service Record. As per Railway

of his date of birth. We are satisfied that he has no case for seeking the relief as prayed for.

11. In view of the above, the O.A. is fit only to be dismissed and accordingly we do so. No costs.

CERTIFIED TO BE TRUE COPY *R. S. S.*

Date.....

Court Officer

Central Administrative Tribunal

Hyderabad Bench

Hyderabad

15/6/94

Copy to:-

1. The Chief Personnel Officer, Personnel Branch, S.C.Rly's Secunderabad.
2. The Divisional Railway Manager, (P) (BG), S.C.Rly's, Secunderabad.
3. The Sr. Divisional Personnel Officer, S.C.Railway, Secunderabad.
4. The General Manager, S.C.Railway, Railnilayam, Sec'bad.
5. One copy to Sri. Y.Vijayakumar, advocate, CAT, Hyd.
6. One copy to Sri. C.V.Malla Reddy, Addl. CGSC, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

Rsm/-

*10/6/94
R. S. S.*

Regi. - Review Petition

AT HYDERABAD

R.A.NO: OF 1994

in

938
O.A.NO: 1422 OF 1993

BETWEEN:

Raghavulu .. APPLICANT

A N D

Chief Personnel Officer,
S.C.Rly, Secunderabad.
and 3 others.. RESPONDENTS.

REVIEW APPLICATION FILED UNDER
RULE 17 OF CAT (PROC.) RULES

FILED ON: 20.7.1994

FILED FOR: APPLICANT.

FILED BY:

SANKA RAMA KRISHNA RAO, B.A., LL

ADVOCATE, ANDHRA BANK LANE,
CHIKKADPALLY, HYDERABAD. 20.

COUNSEL FOR THE APPLICANT.

cum Reddy
sc for cey
27/7/94

RECEIVED

29 JUL 1994

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Hyderabad Bench