

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION No.96/93

DATE OF JUDGEMENT: 31-3-1993

Between

K.Ramachandar

.. Applicant

and

1. Senior Superintendent of Post Offices
Hyderabad City Division
Hyderabad-500 001.

2. Senior Postmaster
General Post Office
Hyderabad 500 001

.. Respondents

Counsel for the Applicant : Mr.S.Ramakrishna Rao

Counsel for the Respondents: Mr.NV Raghava Reddy

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 allow the applicant to continue in service till the applicant attains the age of superannuation on the basis of his date of birth as 24.6.1938.

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

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3. The applicant was initially appointed as Postman, GPO Hyderabad on 16.8.1961. According to the applicant, his correct date of birth is 24.6.1938. The date of birth of the applicant was entered as 10.2.1935 in the service records of the applicant by the respondents at the time of joining the service in 1961. The applicant had produced his educational qualifications certificates before the respondents to show that his date of birth is 24.6.1938, and according to the applicant, not entering the correct date of birth of the applicant as 24.6.1938 in his service records, is the mistake of the respondents. The applicant had made representations to the respondents to correct his date of birth from 10.2.1935 to 24.6.1938. As the respondents have turned down the request of the applicant for correcting his date of birth as 24.6.1938, the present OA is filed by the applicant for the relief as ~~xxxxxx~~ already indicated above.

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

5. We have heard Mr S.Ramakrishna Rao, counsel for the applicant and Mr NV Raghava Reddy, Standing Counsel for the respondents.

6. The applicant, at the time of filing this OA (on 3.2.93) was working as LSG PA at Putlibowli Post Office, Hyderabad. The applicant had since retired from service on the basis of the date of birth entered in his service records ~~which is 10.2.35~~ (The applicant has ~~been~~ retired on 1.3.93). It is the case of the applicant that his correct date of birth is 24.6.1938. But according to the respondents, the applicant himself had given his date of birth as 10.2.1935 when he joined the service.

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on 16.8.61, and that, on the basis of the date of birth of the applicant as 10.2.1935, the applicant had been retired. It is also the case of the respondents, that there is no proof to show that the correct date of birth of the applicant is 24.6.1938. So, it is maintained on behalf of the respondents, that this OA is liable to be dismissed.

7. When this OA came up for hearing, counsel for the respondents produced before us a statement of the applicant dated 16.8.1961, giving his particulars at the time of joining service. In the said statement dated 16.8.61, it is clearly mentioned that the date of birth of the applicant is 10.2.1935. Apart from that, the applicant had signed the entries in the first page of his service book in token of having admitted his date of birth as 10.2.1935. Further, the applicant had verified the entries of his service book on 10.4.69, 1.3.77, 21.8.81 and 27.2.86 and had signed on all these occasions in token of accepting the correctness of the entries thereon in the service book. When the applicant had verified the entries in his service book, the applicant had never objected that 10.2.35 is not his correct date of birth and his correct date of birth is 24.6.1938. If the applicant himself had not given his date of birth as 24.6.1938 at the time of joining service, we are unable to understand why the applicant had failed to take any objection as and when the entries in the service book of the applicant were verified by him. So, from the entry in the service register ~~✓~~

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of which the applicant had opportunity to take objection
his date of birth
and get corrected/and also from the descriptive particulars
given by the applicant at the time of entry into the
service on 16.8.61, the irresistible conclusion that could
be drawn is, that the applicant himself had given his
date of birth as 10.2.1935 when he joined the service.

8. According to the applicant, 10.2.1935 is not
his correct date of birth and his correct date of birth
is 24.6.1938. It is needless to point out, that heavy
burden is cast on the applicant to prove that his correct
date of birth is 24.6.1938, especially, when the applicant
himself had given his date of birth as 10.2.1935 at the
time of joining service.

~~not~~ It is understandable
why the date of birth of the applicant should be entered
as 10.2.1935 by the respondents, instead of 24.6.1938, as
contended by the applicant to be the correct date of birth
if ~~the~~ the applicant had submitted his educational
qualification certificates at the time of joining service.
So, the argument on behalf of the applicant that the
applicant had submitted his educational qualification
certificates bearing date of birth as 24.6.1938 at the
time of joining services do not appeal to us at all. But,
nevertheless, it has got to be considered by this Tribunal
whether the required proof is there to show that the correct
date of birth of the applicant is 24.6.1938.

9. The applicant had filed a sworn affidavit dated 4.1.93 of one Mr Rukma Reddy, Sarpanch, Kervelly, Pudur Mandal, Ranga Reddy District, along with the birth extract said to have been issued by the same sarpanch. It is needless to point out, that Sarpanches are not the competent authorities to maintain the register of births and deaths as they are not the authorised persons.

There is no provision under the AP Grampanchayat Act which enables Sarpanch of panchayat to maintain birth and death register of the village for which he is the sarpanch. So, it is quite evident that the said birth extract filed before us is not issued by a competent authority. It is quite possible that the said birth extract is a bogus document. So, we are not prepared to place any reliance on the said birth extract. As we had not placed any reliance on the birth extract the affidavit of the said ~~sarpanch~~ Sarpanch Mr Rukma Reddy swearing the date of birth of the applicant as 24.6.1938 cannot be given any credence. For the said reasons, the birth extract of the applicant issued by the Sarpanch of Kervalli, ~~sarpanch~~ and the sworn affidavit of the said Sarpanch Rukma Reddy do not advance the case of the applicant to show that the correct date of birth is of 24.6.1938. Hence, the said documents are no consequence at all.

10. The next document which the applicant relies on is the domicile certificate dated 27.11.58, issued by the Addl. Collector of Hyderabad District, wherein

it is stated that the applicant is a resident of Secunderabad and the age of the applicant is shown as 20 years. It is quite possible, the Addl. District Collector, Hyderabad District ^{who} had issued the said domicile certificate dated 27.11.58, might have put a rough estimate of the age of the applicant. It is significant to note that the date of birth of the applicant is not mentioned in the said domicile certificate dated 27.11.58.

Even though the age of the applicant is mentioned as 20 years which according to us, should have been only a rough estimate of the applicant's age, [from the said domicile certificate,] we are not prepared to infer that the applicant's correct date of birth is 24.6.1938. So, the said document does not have any evidentiary value to conclude the correct date of birth of the applicant as 24.6.1938.

11. Another document which the applicant relies is the age certificate dated 27.11.91 issued by one Dr K. Ramkrishna Rao, Civil Surgeon & Specialist (PED) Nampally Hospital, Hyderabad. In the said certificate it is stated that according to his (K. Ramachandar ~~applicant herein~~) own statement, his (applicant's) date of birth is 24.6.1938 and as per appearance also the applicant looks 53 years. As could be seen from the said certificate, the date of birth of the applicant is mentioned as 24.6.1938 on the own statement of the applicant. So, no credence can be given to the date of birth of the applicant as mentioned in the said age certificate. No doubt, the Doctor has

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certified that as per appearance, the applicant's age is 53 years. So, it is the contention of the learned counsel for the applicant that, as the Doctor has certified that by appearance that the applicant was aged 53 years as on 1991, it would be safely accepted that the date of birth of the applicant is 24.6.1938. Sufficient to say, that appearances are quite often deceptive. So even though the Doctor has stated that the applicant by appearance seems to be 53 years, we are not prepared to give any weight to the said statement of the Doctor and hence, we are not prepared to believe that the Date of birth of the applicant is 24.6.1938. So, the age certificate dated 27.11.91 issued by Dr.K.Ramkrishna Rao, Civil Surgeon Specialist (PED) Nampally Hospital, Hyderabad does not go to establish the date of birth of the applicant as 24.6.1938.

12. The applicant has also filed before us his Driving Licence dated 17.2.87 and also copy of the Identity Card issued by the 2nd respondent, wherein the date of birth of the applicant is mentioned as 24.6.1938. The date of birth of the applicant shown in these 2 documents (Driving licence & Identity card) cannot be valid proof ~~and~~ to show that the date of birth of the applicant is 24.6.1938, as the authorities who had issued the said driving licence and Identity card are not the competent authorities to determine the age of the applicant. So, these two documents that is driving licence of the applicant and identity card showing the date of birth of the applicant as 24.6.1938 cannot have any ~~weight~~ and so the said documents are also rejected.

13. The applicant had appeared privately for the SSC Examination held by the Andhra University and a copy of the certificate issued by the Andhra University to this effect is also filed before us. From the certificate it is clear that the applicant had appeared for Matriculation Examination in the month of September, 1958 privately but has failed in the same that and the date of birth of the applicant ^{therein,} is shown as 24.6.1938. So, on the basis of the date of birth of the applicant as shown in the said certificate issued by the Andhra University, it is contended on behalf of the applicant that the date of birth of the applicant should be accepted as 24.6.1938. As already pointed out, if the correct date of birth of the applicant is 24.6.1938, we are unable to understand why the applicant had failed to produce the said certificate before the respondents to show his ~~the~~ correct date of birth is 24.6.1938 and to record the same in the service register at the time of joining ~~the~~ service in the year 1961. But, nevertheless, there is no proof to show on what basis the date of birth of the applicant is shown as 24.6.1938 in the said certificate issued by the Andhra University

Because the date of birth is mentioned as 24.6.1938 in the certificate issued by the Andhra University, that itself cannot be ~~the~~ proof to show that the date of birth of the applicant is 24.6.1938 unless there is some independent and acceptable evidence to show that the date of birth of the applicant is 24.6.1938.

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To

1. The Senior Superintendent of Post Offices,
Hyderabad City Division, Hyderabad-1.
2. The Senior Postmaster General, Post Office, Hyderabad.
3. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT. Hyd.
4. One copy to Mr. N. V. Raghava Reddy, Addl. CGSC. CAT. Hyd.
5. One spare copy.

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14.

If the correct date of birth of the applicant is 24.6.1938, we are unable to understand why the applicant had failed to produce the birth extract from the Registrar of Birth and Deaths to prove that his correct date of birth is 24.6.1938. As already pointed out, we have not placed any reliance on the copy of the birth extract issued by Rukma Reddy Sarpanch of Kervelly, Pudur Mandal, RR District. The applicant is said to be having brothers and sisters. If the correct date of birth of the applicant is 24.6.1938, the applicant should have filed the birth extract of his brothers and sisters who are elder to him along with his birth extract, in which case there would have been a conclusive proof to determine the date of birth of the applicant as 24.6.1938. It is significant to note that the applicant has not filed birth extract of his ~~xxxx~~ brothers or sisters, apart from the birth extract of the applicant issued by the competent authority. So, from these circumstances, the fact that the correct date of birth of the applicant is 24.6.1938 cannot be accepted at all. As a matter of fact, such proof to show that the correct date of birth of the applicant is 24.6.1938, is not forthcoming in this case. Hence, 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, the parties shall bear their own costs.

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

To

1. The Senior Superintendent of Post Offices,
Hyderabad City Division, Hyderabad-1.
2. The Senior Postmaster General, Post Office, Hyderabad.
3. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT. Hyd.
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T. Chandrasekhara Reddy
(T.CHANDRASEKHARA REDDY)
Member (Jud1.)

Dated:

31-3-1993

Deputy Registrar (J)

TYPED BY
CHECKED BY (10) COMPARED BY
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(JUL)

DATED: 31 - 3 - 1993

ORDER/JUDGMENT

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

in

O.A.No. 96/93

T.A.No.

(W.P.No)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed as withdrawn.

Dismissed