

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

O.A.No.981/93

Date of Order:20.10.93

Narasaiah Ramaiah

.. Applicant

Vs.

1. Senior Divisional Mechanical Engineer, South Central Railway, Secunderabad BG Division, Secunderabad.
2. Senior Divisional Personnel Officer, South Central Railway, Secunderabad BG Division, Secunderabad.
3. Chief Personnel Officer, South Central Railway, Rail Nilayam, Secunderabad.

.. Respondents.

Counsel for the Applicant : Mr.G.V.Subba Rao

Counsel for the Respondents : Mr.D.Francis Paul, S.C for Rlys.

CORAM :

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

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

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O.A.NO.981/93

JUDGMENT

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

The applicant is working as Skilled Grade-I Fitter in the Diesel Loco Shed at Kazipet. He joined service as Casual Labour under Driver Incharge, Loco Shed, Kazipet on ~~letter on~~ ^{on 11-6-1953} 2.5.1954. He was appointed as Yard Khalasi ~~on xx xx xx xx~~ on permanent basis. It is stated for the applicant that before the said appointment as Yard Khalasi, he was sent for medical examination for ascertaining ~~of~~ his age, and on that basis his date of birth was noted as 17.10.1935. The case of the applicant is that when the articles from ~~the~~ ^{his} delapidated house were being removed in 1992, he had come across his horoscope and it discloses his date of birth as 22.10.1937. ~~xx~~ Then he submitted an application dated 15.7.1992 to the Divisional Railway Manager, South Central Railway, Secunderabad requesting for correction of his date of birth as 22.10.1937. In support of the said representation, the horoscope and the certificate ^{and his affidavit before Munsif Magistrate} dated 3.6.1992 issued by the Sarpanch, Koochanapalli, were filed. The applicant was informed by the proceedings dated 9.6.1993 of the Chief Personnel Officer, South Central Railway (3rd respondent herein) ~~xx~~ that the horoscope and the declaration of Gram Panchayat and the affidavit sworn in before the Munsif Magistrate are not valid documents to alter the recorded date of birth and it was further stated therein that the applicant had not come up with any satisfactory reason to convince the necessity to alter the recorded date of birth and therefore the date of birth recorded in his Service Register will continue to remain and the applicant has to superannuate on 31.10.1993.

2. This OA was filed praying for a direction to the respondents to alter the date of birth of the applicant as

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22.10.1937 from 17.10.1935 and to continue the applicant in service till 31.10.1995.

3. Heard Shri G.V.Subba Rao, learned counsel for the applicant and Shri D.Francis Paul, learned Standing Counsel for the respondents.

4. The ~~Establishment~~ Serial Circular No.205/72, dated 21.8.1972 was issued by the Railway Board fixing three years time from the date of entry into service or from the date of the said circular whichever is later, praying for requests for alteration of date of birth as entered in the service record.

5. When illiterate employees of Class-IV submitted that the requests for alteration of date of birth ^{were} not being entertained, Establishment Serial Circular No.29/79 in Circular letter N_o. P.(R)212, dated 21.2.1979 was issued whereby illiterate employees were permitted to come up with requests for alteration of date of birth even when the period referred to in Serial Circular No.205/72 expired. It is stated for the applicant that he belongs to SC communicaty and he is illiterate and even now, he cannot write except putting his signature and he ^{even} cannot read and as such he is entitled to the benefit of Serial Circular No.29/79. But, Shri Francis Paul, learned Standing counsel for the respondents submitted that the applicant was ~~promised~~ promoted from time to time and the promotions in the skilled grade ^{was} on the basis of the trade test and a syllabus is prescribed for the said test and unless an employee is literate, he cannot pass the trade test and hence the case of the applicant that he is illiterate cannot be accepted. Shri G.V.Subba Rao, learned counsel for the applicant submitted that as the date

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of birth was noted at the time of entry into service, the question as to whether the employee is literate or not has to be considered as on the date of entry into service and even assuming that the question as to whether the employee is literate or not has to be considered as on the date of representation praying for alteration of his date of birth, still it has to be held that the applicant is an illiterate even today for ~~one~~ ^{reading} one can pass the trade test on the basis of experience and even without ~~writing~~ ^{writing} the syllabus prescribed for the trade test.

6. It is stated ~~for~~ the respondents that the horoscope and the certificate of the Gram Panchayat cannot be looked into for determining the date of birth. It is urged for the applicant ~~with regard to~~ that the horoscope and the certificate of the Gram Panchayat ~~and also the evidence, as~~ ^{and hence} it is necessary for the concerned authority to verify the date of birth on the basis of the documents filed by the applicant.

7. ~~It is also necessary to consider that if~~ the date of birth as now asserted for the applicant is going to be accepted, then the applicant should be held as aged below 18 years as on the date of appointment as Khalasi and hence the request of the applicant cannot be considered as he would have undue advantage, urged the learned counsel for the respondents. But, it was contended for the applicant that if an employee joined service at ~~an~~ ^{an} age below 18 years, the service upto completion of 18 years cannot be reckoned for the purpose of pension and there was no bar for appointing an employee aged below 18 years as per the ~~the~~ extent rules as on ^{the} date of appointment of the applicant.

8. It may be noted that the basis even for the certificate ~~and the affidavit of applicant~~ issued by the Sarpanch is only the horoscope ~~which~~ which is now

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being relied by the applicant. In the said horoscope, the date of birth was noted as 22.10.1937. But in referring to the Telugu year, the same was noted as "విభవ" (Vibhava). But, the Telugu year "విభవ" (Vibhava) corresponds 1928-29 and it does not correspond to the year 1937. On the basis of the said fact alone, it has to be stated that the horoscope relied upon for the (was not written in the year of birth of the applicant) applicant, and it was brought into existence with an ulterior motive. Hence the said horoscope cannot be held as genuine. Thus, there is reliable evidence on the part of the applicant to support his contention that his date of birth is 22.10.1937. On this ground itself, this OA has to be dismissed. As such there is no need to refer to the other contentions raised, for disposal of this OA.

9. Accordingly, this OA is dismissed. No costs.

Sd/-
(R.RAMGARAJAN)
MEMBER (ADMN.)

Sd/-
(V.NEEADRI RAO)
VICE CHAIRMAN

DATED: 20th October, 1993
Open Court dictation

vsn.

Sd/-
Dy. Registrar (Judl.)

Copy to:-

1. Senior Divisional Mechanical Engineer, South Central Railway, Secunderabad BG Division, Secunderabad.
2. Senior Divisional Personnel Officer, South Central Railway, Secunderabad BG Division, Secunderabad.
3. Chief Personnel Officer, South Central Railway, Rail Nilayam, Secunderabad.
4. One copy to Sri G.V.Subba Rao, advocate, CAT., Hyd.
5. One copy to Sri D.Francis Paul, SC for Klys, CAT., Hyd.
6. One copy to Library, CAT., Hyd.
7. One spare copy.

Rsm/-

Seal placed by J. APB

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being relied by the applicant. In the said horoscope, the date of birth was noted as 22.10.1937. But in referring to the Telugu year, the same was noted as "శ్రవణ" (Vibhava) ^(Vibhava) ~~(Prabhava)~~. But, the Telugu year "శ్రవణ" (Vibhava) ^{corresponds} ~~was in the year 1928-29 and~~ does not correspond to the year 1937. On the basis of the said fact alone, it has to be stated that the horoscope relied upon for the applicant ^{was not written in the} ~~order~~ ^{year} ~~of birth~~ of the applicant ^{existing} and it was brought into ~~with~~ with an ulterior ~~view~~ ^{view}. Hence, the said horoscope cannot be held as genuine. Thus, there is no reliable evidence on the part of the applicant ^{support his contention} to contend that his date of birth is 22.10.1937. On this ground itself, this OA has to be dismissed. As such there ~~is~~ is no need to refer to the other contentions raised, for disposal of this OA.

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Mo
(R.RANGARAJAN)
MEMBER (ADMN.)

Neeladri
(V.NEELADRI RAO)
VICE CHAIRMAN

DATED: 20th October, 1993
Open court dictation

Dy. Registrar (Judl.)

vsn

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7. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND

R. Ranga Rao
THE HON'BLE MR.A.B.GORTHI : MEMBER(A)

AND

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

AND

THE HON'BLE MR.P.T.TIRUVENGADAM:M(A)

Dated: 20/10/1993

ORDER/JUDGMENT:

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

in

O.A. No. 981/93

T.A. No. (W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered.

No order as to costs.

pvm

