

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.210/93.

Date of Judgement : 2.11.95

Tatineni Koteswara Rao .. Applicant

Vs.

The Secretary,
Min. of Labour,
Govt. of India,
Shram Shakti Bhavan,
Rafi Marg,
New Delhi-110001.

.. Respondents

Counsel for the Applicant : Shri P.B.Vijaya Kumar
Counsel for the Respondents: Shri N.R.Devaraj, Sr. CGSC

Hon'ble Shri A.B.Gorthi : Member (A).

J u d g e m e n t

[As per Hon'ble Shri A.B.Gorthi : Member(A)].

This O.A. is for correction of date of birth. The Applicant, who joined service as Labour Officer (Central Pool Officer) on 29.1.80, claims that his correct date of birth is 19.12.1953 as shown in the extract of birth register and not 4.6.1951 as recorded in his school leaving certificate on the basis of which the latter date was accepted and entered in the service records by the Respondents.

2. Seeking correction of his date of birth the Applicant approached the High Court of Andhra Pradesh in W.P.No.9761 of 1983 which upon transfer to the Tribunal was disposed of (T.A.No.79 of 1988) on 3.11.88 with an observation that the petitioner should have approached the concerned authority

9. Whether the extract of the birth register produced by the Applicant is true or not is a question for consideration of the Respondents. If the Respondents had considered the question fairly and impartially and came to a particular conclusion, it is not for the Tribunal to conclude differently.
10. It is settled law that the scope of judicial review of administrative decisions is limited and it is not the same as an appeal from a decision. It is not the decision as such but the decision as such. In other words, the power of judicial review is meant to ensure that the case of the individual receives fair and objective examination by the competent authority. Once that is done and a decision arrived at, it is not for the Tribunal, whose power of judicial review is akin to that of the High Court's power under Article 226 of the Constitution, to upset that decision unless found to be patently perverse or arbitrary.
11. The record in this case would show that the Respondents were justified in refusing to accept the extract of the birth register for the Applicant.
12. Learned counsel for the Respondents further brought out that if the plea of the Applicant that his date of birth is 19.12.1953 were to be accepted he would be ineligible to appear for the S.S.C. examination. In this context, learned counsel for the Applicant clarified that the Applicant would not be ineligible as such, to take the examination and that what all was required was to obtain permission of the competent authority. I find merit in the view put forward by the Applicant's counsel, but even ignoring the contention raised in this regard by the

that there was a gap of only about 11 months between the two births.

6. Shri N.R.Devaraj, learned Standing Counsel for the Respondents highlighted the fact that the date of birth (4.6.1951) as recorded in the school leaving certificate would show that the Applicant is 3½ years older than his younger brother whose date of birth is 26.11.1954. This would explain why in the extracts of birth register the age of the mother was shown as 16 years at the time of the birth of the Applicant and as 20 years at the time of the younger child's birth.

7. Shri P.B.Vijaya Kumar, learned counsel for the Applicant urged that the date of birth as recorded in the birth register has to be accepted as correct and entered in the -- In this context -- decision of this Bench of the Tribunal in M.Murtuza Ali Vs. Secretary, Central Board of Excise & Customs, New Delhi & Ors. [1988] 8 ATC 632. It was held therein that the entry of the Register of Births made within a few days of the birth should be given weightage in preference to the entry in the school record made much later. It is pertinent to note that the Tribunal further observed as under:-

"However why the entry in the Births and Deaths Register could not be acted upon is not categorically stated nor do the Respondents state that they doubt the genuineness of the entry in the Births Register. In the stated that this is assertion, there is no reason to about the entry in the register produced by the Applicant.

8. The facts in the case before me are different as the Respondents rejected the request of the Applicant essentially on the ground that they were not satisfied with the accuracy/genuineness of the extract of the Births Register in view of the apparent inconsistencies and discrepancies as aforementioned.

Respondents' counsel, I find that, for the reasons already stated, the plea of the Applicant for alteration of his date of birth cannot be acceded to.

13. In the result, the O.A. is dismissed. No costs.

CERTIFIED TO BE TRUE COPY

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Date.....
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad

Copy to:-

1. The Secretary, Ministry of Labour, Govt. of India, Shram Shakti Bhavan, Rafi Marg, New Delhi-001.
2. One copy to Sri. N.R. Devaraj, Sr. CGSC, CAT, Hyd.
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