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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 845/94.

Dt.of Decision : 20-10-94.

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.. Applicant.

Vs

Deputy Director General,
Geological Survey of India,
Southern Region,
Bandlaguda Complex,
Hyderabad-500 068.

.. Respondent.

Counsel for the Applicant : Mr. G. Gopala Rao
~~Counsel for the Respondent : Mr. V. Venkatesh Rao~~

CURAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)

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25/10/94

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D.A. 845/94.

Dt. of Decision : 20-10-94.

ORDER

¶ As per Hon'ble Shri A.V. Haridasan, Member (Judl.) ¶

The applicant was appointed as Cleaner in the Geological Survey of India, Hyderabad with effect from 14.10.1981 on compassionate ground on the death of her husband who was serving in the Geological Survey of India. Since the applicant was not educated and had no document to produce in proof of her date of birth as required under rules she filed an affidavit sworn before notary public on 14.10.1991, wherein she had sworn that her date of birth was 10.9.1943. The applicant was sent for examination by a medical officer for determining her fitness for Government service. The Civil Surgeon it appeared had certified her fit and had also mentioned in the certificate that though the applicant stated that she was 33 years old by appearance she looked 45 years. However, in the service record, the applicant's date of birth was recorded as 14.10.1936. The applicant according to her, did not know what date was recorded in her service record. But recently when her colleagues informed her that she was to retire in about 4 years, she verified the service record and found that her date of birth was recorded as 14.10.1936 instead of 10.9.1943 as declared by her. Immediately the applicant made a representation to the first respondent requesting for alteration of date of birth in the service record stating that as she was born only on 10.9.1943, and date of her birth was erroneously

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entered in the service record as 14.10.1936. In reply to this representation, she received the impugned order dt. 6.12.93 Annexure-1, wherein she was informed that the department had, in the absence of any proof of the date of birth of the applicant, accepted the age of the applicant as stated by the Civil Surgeon in his certificate dated 14.10.1981 (45 years) and entered in the service record her date of birth as 14.10.1936 on that basis.

2. The applicant is aggrieved by this order. According to her, ^{the} date of birth recorded in the service record, has no basis since the applicant was not sent to the Civil Surgeon for ascertaining her age, but only for ~~xx~~ determining her fitness for government service and as the observations of the Civil Surgeon that she looked about 45 years of age in the year 1981 was not based on any test conducted for determining the age. Hence the applicant prays that the impugned order may be quashed and it may be declared that the correct date of birth of the applicant is 10.9.1943 and the respondents be directed to rectify the mistake committed in the service record.

3. The respondents though given sufficient time have not filed any reply. However Shri V.Bhimanna, learned counsel for the respondents submitted that in the absence of any proof produced by the applicant of the correct date of her birth, the department had no alternative but to accept the age assessed by the Civil Surgeon and therefore the action of the respondents in recording the date of birth of the applicant ~~xxx~~ as 14.10.1936 cannot be faulted.

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4. We have heard Mr. G. Gopala Rao, learned counsel for the applicant and Mr. V. Bhimanna, learned counsel for the respondents. At the outset it has to be stated that the recording of the date of birth of the applicant as 14.10.1936 has no basis behind it. The applicant admittedly, was not sent for assessment of her age but for only for ascertaining her fitness for government service. That the applicant was not sent to the Civil Surgeon for ascertaining her age is obvious from the certificate issued by him, a copy of which is available at page No.9, annexure 2 of the paper book. Because the Civil Surgeon has not stated that he conducted any test for the purpose of ascertainment of age of the applicant, the certificate annexure A-2 only shows that the Civil Surgeon has examined the applicant an employee of the Geological Survey of India and could not discover any infirmity which rendered her unsuitable for service in Geological Survey of India. It is also seen that the age of the applicant according to her statement was 38 years and that on the appearance she was about 45 years. The Civil Surgeon did not categorically say that the statement of the applicant that she was 38 years could not be accepted for the simple reason that he had not conducted any test at all. It is very difficult to determine the exact age of a person especially in the case of females who have crossed 25 years by mere appearance. People in affluent circumstances provided with nutritious food and adequate care may look younger than their actual age. While those who are exposed to hardships and poverty may look older. Therefore a mere statement by the doctor that the applicant appeared to be 45 years old that cannot be taken as proof of the age of the applicant

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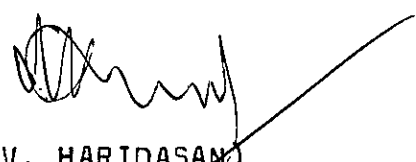
for the purpose of recording the same in the service record. Recording the age of an employee in the service record has far reaching consequence on the career of the person because the age of superannuation depends on date of birth in the service record. If the appointing authority had any reason to dis-belive the correctness of the age ^{by} declared the applicant in her affidavit it was open for ~~it~~ to either direct the applicant to produce better proof of her age or to submit her to the prescribed test for determination of age. That having been not done there was no justification in ignoring the date of birth disclosed in the affidavit of the applicant and to record another date without any basis. Another infirmity in regard to recording the date of birth of the applicant in the service records as 14.10.1936 is that nobody had stated that the applicant's date of birth was 14.10.1936. Even the Civil Surgeon had only stated that the age of the applicant appeared to be about 45 years going by her appearance. The decision of the doctor expressed in the medical certificate dated 14.10.81 that by appearance the applicant looked about 45 years cannot be considered to be a legitimate basis for the competent authority to decide that the applicant was born on 14.10.1936, ignoring that the applicant had sworn in an affidavit that her date of birth was 10.9.1943.

5. In the light of what is stated in the foregoing paragraph, I allow the application in part, set aside the impugned memo dated 6.12.93 and direct the respondent to record the date of birth of the applicant in the service record as 10.9.1943. If for any valid reason the respondents consider ~~it~~ necessary to make any alteration in the date of birth of the applicant from 10.9.1943, they will be at liberty

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to do so, only, on establishing that the date of birth recorded by the applicant, was wrong in a proceedings ~~xxx~~ initiated in that behalf, after giving her fair and reasonable opportunity to defend such an action.

There is no order as to costs.


(A.V. HARIDASAN)
MEMBER (JUDL.)

Dated : 20th October 1994.
Dictated in Open Court.


DEPUTY REGISTRAR (J) 10/11/94

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Copy to:

1. The Deputy Director General,
Geological Survey of India,
Southern Region, Bandlaguda Complex,
Hyderabad - 500 068.
2. One copy to Mr.G.Gopal Rao, Advocate, CAT, Hyderabad.
3. One copy to Mr.V.Bhimanna, Addl.CGSC, CAT, Hyderabad.
4. One copy to Library, CAT, Hyderabad.
5. One spare copy.

YLKR

6/11/94
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Typed by
Checked by

Compared by
Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. A. V. H. NID S. R. : MEMBER (C)

AND

THE HON'BLE MR. A. D. GORTHY : MEMBER (A)

Dated: 20-10-94

~~ORDER/JUDGMENT.~~

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

in
D.A.NO. 845/94

T.A.NO. (U.P.NO.)

Admitted and Interim Directions
Issued.

Allowed.

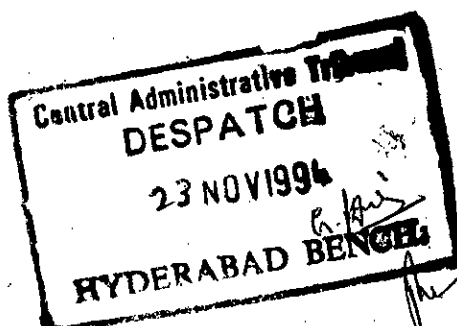
Disposed of with Directions.

Dismissed.

Dismissed Per Default.

Rejected/Ordered.

No order as to costs.



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10/11/94