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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

O.A.NO. 971/94

Between:

Date of Order: 27.4.95.

...Applicant.

And

1. Union of India,
Ministry of Finance,
Rep. by its Secretary,
Ministry of Finance,
Govt. of India,
New Delhi.
2. Chairman,
Central Board of Direct Taxes,
North Block,
New Delhi.
3. The Chief Commissioner of Income Tax,
Andhra Pradesh.

...Respondents.

Counsel for the Applicant : Mr. N. Rama Mohana Rao

Counsel for the Respondents : Mr. N. R. Devraj, Sr. CGSC.

CORAM:

THE HON'BLE SHRI A. B. GORTHI : MEMBER (A).

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O.A.No. 971/94

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X As per Hon'ble Shri A.B.Gorthi, Member (Admn.) X

This is an application for change of date of birth. The applicant was selected to join the Indian Revenue Service in June 1990 and after successfully completing the Training, joined the service on 20.4.92. Her date of birth as recorded in her Secondary School Examination certificate is 28.9.65. She contends that it does not reflect the correct date of birth, which is 11.1.66. In support of her contention she has annexed to the OA an official certificate rendered by the father of the applicant on 27.4.82 declaring details of members of family for the purpose of claiming L.T.C./transfer, T.A. etc." In the said declaration, the date of birth of the applicant was shown as 11.1.66. Another document on which reliance has been placed is a certificate given by Niloufer Hospital on 14.1.66, which is to the effect that the mother of the applicant (Tripta) gave birth to a child on 11.1.66. The applicant made a representation to the Chairman, Central Board of Direct Taxed on 2.2.94 bringing the above facts to his notice and requesting for correction of her date of birth in her service records. Her representation was rejected on 9.5.94 by a cryptic and non-speaking order.

2. The respondents in their reply affidavit have stated that they did not believe the genuineness of the claim of the applicant. They further contended that there was no justification not to accept the date of birth as shown in the scholastic record of the applicant as correct. As the applicant herself furnished the date of birth which

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was recorded in her service record, she cannot now ask for a change of the same.

3. Heard learned counsel for both the parties. Note 6 to F.R.56 (2) enables to Government servant to apply for a change of date of birth provided the following conditions are fulfilled :-

- (a) a request in this regard is made within five years of his entry into Government service;
- (b) it is clearly established that a genuine bona-fide mistake has occurred; and
- (c) the date of birth so altered would not make him ineligible to appear in any School or University or Union Public Service Commission examination in which he had appeared, or for entry into Government service on the date on which he first appeared at such examination or on the date on which he entered Government service.

The respondents evidently rejected the claim of the applicant taking the view that the condition specified at (b) above was not satisfied, i.e., that the applicant failed to establish that a genuine bonafide mistake had occurred.

4. The very fact that the record of Niloufer Hospital showed the date of birth of the applicant as 11.1.66 is clear enough indication that there was a bona fide mistake in the recording of the date of birth of the applicant in her Secondary School Education certificate. This is corroborated by the official declaration made by the applicant's father, an employee of Survey of India, almost 10 years prior to the date of the applicant's joining the I.R.S. It is settled law that a Government servant has the right to show within a reasonable period or within the period, if any, stipulated by statute that the date of birth entered in his/her service record does not represent the true date of birth. That right ^{stems} from the right to continue to serve till the attainment of the age of superannuation. Therefore when a claim for alteration of

To

1. The Secretary, Ministry of Finance,
Govt. of India, New Delhi.
2. Chairman,
Central Board of Direct Taxes,
North Block,
New Delhi.
3. The Chief Commissioner of Income Tax,
Andhra Pradesh,
Hyderabad.
4. One copy to Mr.N.Rama Mohana Rao,Advocate,CAT,Hyderabad.
5. One copy to Mr.N.R.Devraj,Sr.CGSC,CA,Hyderabad.
6. One copy to Library, CAT,Hyderabad.
7. Copy to All Reporters as per the standard list of CAT,Hyderabad.
8. One spare copy.

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date of birth is received within a reasonable or within the specified period, the Government has to consider the claim on merits. In the instant case, from the non-speaking ~~cryptic~~ order issued by the respondents, it seems that there was not sufficient application of mind by the authority concerned in arriving at the decision. The least that the respondents could have done was to make enquiries with Niloufer Hospital and with the Survey of India where the father of the applicant was serving with a view to ascertain the authenticity and genuineness of the documents annexed as A-3 and A-2 respectively to the O.A.

5. Another circumstance which clearly indicates that the claim of the applicant is genuine is that the alteration now being sought would merely reduce her age by ~~3½ months only~~.

6. As regard the respondents' contention that the applicant kept quiet till her entry into Government service, the same cannot be held against the applicant. It could be that she decided to become a career woman only after her college education and if prior to that she did not take any steps to get her date of birth altered, the same cannot come in the way of her seeking relief on entering Government service.

7. Keeping in view the afore-stated, the case of the applicant deserves to be re-considered by the respondents and they are ordered accordingly. While reconsidering the claim of the applicant, the respondents shall have regard to the documents annexed to the O.A. The respondents shall complete the exercise and convey their decision to the applicant within three months from the date of communication of this O.A. is ordered accordingly without any order as to costs.

Janardhan
(A.B.GORTI)
Member (Admn.)

Dated: 27th April, 1995
(Dictated in Open Court)

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Arshia
Deputy Regist.

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TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE SHRI A. V. HARIOSAN: MEMBER (C)

AND

THE HON'BLE SHRI A. B. NURTHI: MEMBER (C)

DATED 27-6-95

ORDER/JUDGMENT

M.A.NO/R.P.NO./C.P.NO.

in

D.A. NO. 971/94

Admitted and Interim directions issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default

Rejected/Ordered.

No order as to costs.

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