

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::HYDERABAD BENCH::
AT HYDERABAD.

O.A.No.1503/94.

Date: 23-4-1996.

Between:

Guntupally Venkaiah Applicant

And

1. The Sub-Divisional Inspector (Postal),
Addanki Sub-Division, Addanki-523201,
2. The Sr. Supdt. of Post Offices,
Prakasam Division, Ongole-523001.
Region, Vijayawada-520 002.
4. The Union of India - Rep. by the
Secretary, ~~Post & Telecommunications~~.
5. The Chief Post Master General,
Andhra Circal, Hyderabad-500 001. .. Respondents

Counsel for the Applicant : Sri J.V. Lakshmana Rao,
Advocate.

Counsel for the Respondents: Sri K. Bhaskara Rao, Addl.
CGSC.

C O R A M:

THE HON'BLE SRI R. RANGARAJAN, MEMBER (ADMINISTRATIVE)

1. as per Hon'ble Sri R. Rangarajan, Member (Administrative) [
..... Sri J.V. Lakshmana Rao, learned counsel for
the applicant and Sri K. Bhaskara Rao, Addl. CGSC for the
respondents.

2. The applicant ~~w~~ in this OA was an EDMC/DA in
Kalavakur Branch Office/ under Addanki S.O. in Ongole
Head office in Prakasam Postal Division
that capacity at Kalavakur on 15.4.1957. He submits

that his date of birth is 20.4.1939. But, the authorities treating his date of birth as 24.1.1930 issued the impugned order No.PF/EDMC/DA/Kalavakur dated 19.10.94 (Annexure A.26) stating that the applicant will be discharged from service on 23.1.1995 on completion of 65 years of age. By letter No.PF/EDMC/DA/Kalavakur dt. 23.10.94 (Annexure A.27) R-1 directed the applicant to submit his application for gratuity as he is due to retire on 23.1.1995. He was retired on 23.1.1995.

Accarieveed by the above, he has filed this OA to quash the impugned order dt. 19.10.1994 (Annexure A.26) after perusing the records and files as detailed in para-4.21 of the OA giving below records and for a consequential direction to retain the applicant in service upto 65 years of age as his date of birth is 20.4.1939 and not 24.1.1930.

Documents relied upon in this OA for the correction of the date of birth are as follows:

(i) The certificate of the A.A. Board High School, Bommanapadu had given the certificate dt. 25.1.1957

wherein it is stated that his date of birth is 20.4.1939. He studied in that school upto 5th standard during the period 11.1.1945 to 11.1.1949. Hence, this is a valid document which should have been relied upon for correcting his date of birth.

(ii) The certificate of the

Inspector of Schools, Korisapad (Annexure A.12) also states that

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as entered in the school records. It also states that the certificate issued by the head-master, A.A. Board High School, Bommanapadu is genuine and valid for the purpose. The Mandal Revenue Officer, Addanki has also given declaration of date of birth of the applicant dated August, 1994 (Annexure A.21) which also shows his date of birth as 20.4.1939. The Medical Officer has also certified that his date of birth is 20.4.1939 which certificate is enclosed as Annexure-A.22. Ignoring these valid certificates, the respondents issued the notice retiring him from service on 23.1.1995 which is illegal and arbitrary.

(iii) The applicant submits that R-1 is enemically disposed towards him. R-1 in collusion with one Sri N. Subba Rao, EDB M, Kalavakur deliberately recorded his date of birth wrongly in the statement dated 20.1.1988 when he was summoned by R-1 to his office to enquire about some allegations about the applicant. The applicant also alleges that the said Sri N. Subba Rao, also engineered along with a villager of Kodareddy palem to give a complaint against the applicant regarding his failure to deliver letters well. The applicant further submits that the biased attitude of R-1 resulted in his pre-mature retirement.

against him, he alleges that the duty timings of the Kavalakur B.O. were changed which made him overwork.

With the above contentions, he filed representations to R-2 to treat his date of birth as 20.4.1939

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instead of 24.1.1930 by his representation dt. 19.4.93 (Annexure A.1) 7.5.1993 (Annexure A.13), 1.10.1984 (Annexure A.23) etc. But the applicant alleges that without ascertaining the correctness of these records he was prematurely retired without following the rules. He also submits that the records mentioned in para-4.21 (pages 10 & 11 of the OA) will reveal the correctness of his statement that he was born on 20.4.1939 and not on 24.1.1930 as decided by the respondents.

4.4.1995 contend as follows:-

- (i) The Conduct Certificate dt. 24.1.1957 issued by Sri Mutupalli Tirupathi Rayudu, Village Munsiff, Bommanapadu, clearly states that the applicant is 27 years old as on 24.1.1957 and it clearly indicates that the applicant is the son of Muscaliah who was the son of the Head Master, A.A. Board High School dt. 25.1.57 is not genuine as it does not bear any stamp and also the father's name of the applicant is not indicated in the certificate.
- (ii) As regards the certificate issued by the Mandal Revenue Officer, Addanki and the Medical Certificate, the respondents contend that the applicant did not produce the certificate from the Birth Register when asked to produce the same to verify the veracity of the certificates of the MRO and the Medical Officer. As the applicant failed to produce the extract of the Birth Certificate, the veracity of those said certificates could not be verified. Further, the respondents also

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aver that there is no truth in regard to the allegation that R-1 is biased against him and hence he noted the date of birth of the applicant as 24.1.1930. They also deny that the change of timings in the P.O. ^{work} Kalavakur was done due to vindictiveness against the applicant, but was necessitated for the proper functioning of the Branch office. Though the applicant was given extra work, he had been compensated for performing the extra work by hiking his allowances to Rs.420/- plus D.A. Hence the allegation of bias on this score is not sustainable on facts.

(iii) They further submit that the applicant of birth on 11.9.1990 and there was no correspondence from the applicant previous to that. A number of seniority lists of ED staff had been issued wherein the date of birth of the applicant is noted as 24.1.1930. But, the applicant did not take any action when the date of birth was wrongly indicated in those lists. He objected to it only when he was not permitted to sit for the Postman selection. Hence, the applicant had approached the authorities at the fag end of his service which cannot be considered.

(iv) As regards the descriptive particulars, health certificates, declarations and police verification report taken at the time of his joining which were preserved in the Ondole Head office were destroyed in fire in 1972. However, a register showing the date of birth and date of continuous service etc. relating to



ED officials has to be maintained by the appointing authority and in this register, The date of birth of the applicant is found noted as 24.1.1930. In view of the above, that the request of the applicant at the frag end of his service cannot be acceded to.

7. The applicant has filed a rejoinder dt. 25.10.95. In that rejoinder, he has also contended the veracity of the Conduct Certificate dt. 24.1.1957 and alleges that this certificate also cannot be relied upon when the other certificates issued by the Head Master, MRO ~~.... is rejected as not being authentic.~~ He also reiterates that he had submitted representations earlier to 1990 in the years 1990 ~~....~~ that the respondents failed to connect those representations.

8. As regards the certificate of Head Master, A.A. Board High School, he submits that it is a genuine ~~.....~~ proved by the voters List wherein his name is entered as Gundupalli Venkaiah and there ~~.....~~ submits that the registers maintained by R-1 indicating his date of birth might have been written after the fire ~~.....~~ is questionable.

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No attempts seem to have been made to reconstruct the destroyed records kept at Ongole. In this connection, he requests for checking the reconstructed records of others whose files were also destroyed in that fire so as to see whether similar practice is followed in his case.

9. A reply to the rejoinder dt. 7.3.96 has been filed by the respondents. There is nothing important to be brought out on the basis of this affidavit. When the case came up for hearing on 20.3.96 and the available records were brought to the court,

applicant to examine the records. Further, he was perusal of the records. Accordingly, the learned counsel for the applicant submitted a note.

10. In this note the applicant submitted that the case may be heard by a Member knowing Telugu as the records are written in Telugu language. This submission is accepted, it would mean that the case cannot be heard to this Bench. The court can examine the records after getting them translated into English. Hence, the learned Counsel should refrain from making such submissions in future.

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11. There is nothing new in this note submitted by the learned counsel for the applicant after perusal of the records. The note only reiterates * what was said earlier. The note further states that the Note-6 under FR 56 has to be taken into account before determining the date of superannuation of an employee which is not followed in the case of the applicant herein. It also states that the reconstruction of the destroyed records of 1972 is necessary for determining the date of superannuation. The note further emphasises that the certificate of the Head Master is a crucial document which should not be ignored without proper investigation. Besides the above, the learned counsel of the applicant has relied upon the case laws at Sl.No. 2693, 2695, 2706, 2710, 2721, 2722, 2739, 2743, 2749 by Surender Malik). The case laws quoted are for general guidance and no specific ruling in regard to this case can be decoded from those serials.

12. I had asked the learned Standing Counsel to give the English translation of the important documents on record which were brought to the court. The English Translation of the Conduct Certificate dt. 24.1.1957 was sub-

13. A perusal of the various contentions and the replies given as above will definitely indicate that the case involves factual verification of details on record on the basis of enquiries by the departmental authorities at the field level viz. in the school, Mandal level, in addition* to examining the available records

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and any other records that may be produced by the applicant while enquiring into this case. The various contentions made out by both sides could not be treated as conclusive and a fact finding enquiry at a higher level is called for. This Tribunal cannot make such enquiries in view of the nature of the enquiry ~~to~~ to be done. As the applicant alleges bias against R-1, it is necessary that this enquiry has to be initiated at a higher level by R-5. R-5 being a busy official, he cannot himself conduct such an elaborate enquiry. Hence, he should depute a suitable senior officer not below the rank of Group 'A'

Senior Scale Grade Officer to enquire into this case. On the basis of the enquiry report to be submitted by the officer concerned, R-5 should take a ~~decision~~ decision based on materials available and on the basis ~~of the~~ ~~.....~~ also in a similar case this Tribunal had given direction as above. As R-5 is directed to conduct the enquiry and take a decision, it is not proper to express any opinion on this case at this juncture.

~~.....~~ to be reinstated, he should issue an order to that effect after following extant rules. To facilitate this the interim order dt. 18.1.1995 in this OA had directed to indicate in the appointment order appointing any ~~.....~~ subject to the result in this O.A. In case the contention

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of the applicant is rejected, he should be given a detailed speaking order as to why his prayer for correction of date of birth cannot be acceded to.

14. In the result, the following direction is given:-

R-5 is to institute a fact finding enquiry in regard to the prayer of the applicant for correcting his date of birth from 24.1.1930 to 20.4.1939 by a senior officer of the department not below the rank of a Group 'A' Senior Scale Grade officer, associating the applicant in the enquiry. If R-5 comes to the conclusion that the applicant has to be reinstated, he should be reinstated within three months from the date of arriving at such a conclusion following extant rules and consequential relief thereof has to be granted to him. In case R-5 comes to the conclusion that the correction of date of birth is not to the applicant indicating the reasons for reaching such a conclusion.

16. Parties will bear their own costs.

(R. Rangarajan)
Member (Admn.)

Dated April, 1996.

Grh.

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11/10/94

D.A.NO.1503/94

COPY TO:

1. The Sub Divisional Inspector(Posta),
Addanki Sub Division,
Addanki - 523 201.
2. The Senior Superintendent of Post Offices,
Prakasam Division, Ongole - 523 001.
3. The Postmaster General,
Vijayawada Region,
Vijayawada 520 002.
4. The Secretary, Dept. of Posts,
Dak Bhawan, New Delhi - 110 001.
5. The Chief Post Master General,
Andhra Circle, Hyderabad.
6. One copy to Mr.J.W.Lakshmana Rao, Advocate,
CAT, Hyderabad.
7. One copy to Mr.K.Bhaskara Rao, Addl.CGSC,
CAT, Hyderabad.
8. One copy to Library,CAT,Hyderabad.
9. One duplicate copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M.E.A)

DATED: 23.4.96

ORDER/JUDGEMENT

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

IN

D.A. NO. 1503/94

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDERS AS TO COSTS

No Spare Copy

केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal

प्रेषण/DESPATCH

13 JUN 1996

हैदराबाद बाध्यपीठ
HYDERABAD BENCH