

(17)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : AT HYDERABAD.

\* \* \*

O.A. 406/94.

Dt. of Decision : 28.4.94.

Chandraiah

.. Applicant.

Vs

1. Union of India,  
Rep. by General Manager,  
SC Rly, Secunderabad.
  2. The Divisional Railway Manager (NG)
- 
- .. Respondents.

Counsel for the Applicant : Mr. B. Nalin Kumar

Counsel for the Respondents: Mr. J. Siddaiah, Addl. CGSC.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADR I RAO : VICE CHAIRMAN

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

18

Judgement

( As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman )

Heard Sri B. Nalin Kumar, learned counsel for the applicant and Sri D. Siddaiah, learned counsel for the respondents.

2. This OA was filed praying for quashing the order dated 10-12-1993 whereby he was informed that he had to retire on 30-4-1994.

3. The facts which are not in controversy are that the applicant was engaged as Casual labour in Railways in 1955. Then he was sent to a doctor. He had not produced any birth certificate. On 23-4-1955 his age was noted as 19 years by the medical officer. Later on 15-2-1956 he was appointed as Engine cleaner. Then the same doctor has given a certificate on 1-3-1956 by noting the age of the applicant as 19 years.

4. In the service register of the applicant the date of his birth is noted as 23-4-1936 and on that basis the applicant was informed by the impugned proceedings that he had to retire on 30-4-1994, as he would be completing 58 years in April, 1994.

5. But it is contended for the applicant that as the date of his birth was not given by the doctor on 1-3-1956 his date of birth was noted as 1-3-1937 and hence he should be asked to retire only by the end of February, 1995.

6. The contention for the respondents is that it is not open to the applicant to come with a request for alteration of date of birth after 1978 in view of the DM of 1972 and

on that ground alone this OA had to be dismissed. It is further urged for the respondents that when the date of birth of the applicant was noted in the Service Register on the basis of the determination of the age as per the Certificate of the Medical Officer, when no document was produced by the applicant in support of his date of birth, the date of birth of the applicant as entered in the Service register cannot be held as incorrect.

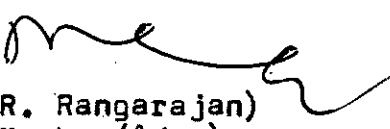
7. We will advert to the latter contention first. The Certificate dated 23-4-1955 is the earliest Certificate that was given by the Medical Officer whereby the age of the applicant was determined. ~~When no document was~~ placed before <sup>us</sup> that the age as determined by the said certificate is not correct, it is not open to the applicant to claim that the age as noted by the Medical Officer in the ~~later~~ certificate should be taken into consideration. It may be noted that even at the time of engagement as ~~only for fitness but also for determination of age if no document is produced in proof of the date of birth. In such a case, it is not necessary~~ <sup>again</sup> ~~action~~ to undergo Medical test for determination of age when the said employee is appointed in regular service of the same Department. Hence, the contention for the ~~applicant~~ <sup>respondents</sup> that the earlier certificate which is dated 23-4-1955 had to be taken as basis in regard to the age of the applicant had to be accepted. ~~As~~ the date of birth as noted in the Service register of the applicant ~~is~~ in accordance with the entry in the Certificate dated 23-4-1955, and as the impugned proceeding was issued on that basis, the same cannot be ~~held~~ as illegal

held

and on that basis alone this OA had to be dismissed.

8. In the above view, there is no need to consider the first contention for the respondents.

9. In the result, the OA is dismissed. No costs.

  
(R. Rangarajan)  
Member (Admn)

  
(V. Neeladri Rao)  
Vice Chairman

Dated : April 28, 1994  
Dictated in the Open Court

sk

Deputy Registrar (Admn.)

Copy to:-

1. General Manager, S.C. Railway, Union of India, Secunderaba
2. The Divisional Railway Manager (MG), S.C. Railway, Sec'bad.
3. Pally, Secunderaba District, Dist. No. 128, East Marad-
4. One copy to Sri. J. Siddaiah, SC for Railways, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

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O.A. 406/94

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

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

AND

AND

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

AND

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

Dated: 28/4/1994

ORDER/JUDGMENT

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

O.A.No.

in  
406/94

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 cost.

Central Administrative Tribunal  
DESPATCH  
2/6 JUN 1994  
RAJ. BENCH.