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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

HYDERABAD

Between:

O.A.NO.685/94

Date of Order: 23.6.95.

J.V.Ramudu

...Applicant.

And

1. Government of Andhra Pradesh,
Rep. by its Secretary,
New Delhi.
2. Union Public Service Commission,
New Delhi, Rep. by its Secretary.
3. Government of Andhra Pradesh,
Rep. by its Chief Secretary,
Secretariat Building,
Hyderabad.

...Respondents.

Counsel for the Applicant : Mr.M.R.K.Choudary

Counsel for the Respondents : Mr.N.V.Ramana, Addl.CGSC.

Mr. I.V. Radha Krishna Murthy

CORAM:

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

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DA 685/94.

Dt. of Order: 23-6-95.

(Order passed by Hon'ble Shri A.B.Gorthi, Member (A)).

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The applicant was selected for the Indian Police Service, having qualified in the Central Civil Services Examination. After training he joined the service in 1983. At the time of his interview during selection it was pointed out by the Union Public Service Commission that there was a discrepancy in the date of birth as recorded in the school leaving certificate. He was directed to have the discrepancy rectified. The applicant took necessary steps in that regard to get his date of birth corrected in S.S.C. Certificate and thereafter approached the Government of India for correction of his date of birth. His request was rejected by Government of India vide impugned memo dt.6-4-94 although the applicant's case was recommended by the State of Andhra Pradesh. His claim in this Original Application is for setting aside the impugned memo dt.6-4-94 and to direct the Respondents to consider the claim of the applicant, in the light of the recommendations made by the Government of Andhra Pradesh, for correction of date of birth.

2. The applicant appeared in the Civil Services Examination, 1980 and was selected for I.P.S., 1981 batch. At the time of interview, the Union Public Service Commission noticed that in the Secondary School Certificate, the applicant's date of birth was shown as 15-7-53 in figures and as First July, 1953 in words. Besides, the name of the father was shown as J.Pullappa, whereas

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the applicant in his application had shown his father's name as J.Venkataiah. The discrepancies were brought to the notice of the applicant and he was directed to get the date of birth duly corrected in the School leaving certificate. Consequently, the applicant approached the concerned Civil Officials and obtained an extract of the Birth Register. A perusal of the extract certified by the Tahsildar, Dharmavaram, shows that on 1-8-1954 a male child named Venkatrayappa was born to Venkataiah and Govindamma, residents of Narasimhapalli of Village Nadigallu, Dharmavaram Taluka, Anantapur District. The record further indicates that the name of the informant was Jasti Pullapa, who was the child's paternal uncle (father's younger brother). This extract was certified on 7-12-1981. The applicant states that once he got to know that his correct date of birth was 1-8-1954 and that it was neither 1-7-53 nor 15-7-1953 he began taking steps to get the school leaving certificate first corrected before approaching the Government for further action. He was not advised correctly and as such he lost some time. Finally he was advised to make an application to the District Education Officer for correction of his date of birth in the school leaving certificate. On his approaching the said authority, the District Education Officer, wrote to the District Collector, Anantapur District, and then the Revenue Authorities started enquiring into the matter. After the matter was thoroughly enquired into by the concerned revenue officials, the education authorities accepted the report of the revenue officials and corrected the date of birth of the applicant in the school leaving certificate as 1-8-1954. The name of the father

of the applicant was also similarly corrected as Venkataiah instead of Pullappa. When all these exercises were completed, the applicant approached the Chief Secretary, Government of Andhra Pradesh vide representation dt.22-10-1988. It seems that at the instance of the State Government, the matter was once again subjected to a detailed enquiry. From a perusal of the enquiry report submitted by the Commissioner of Police, addressed to Director General and I.G. of Police, State of Andhra Pradesh dt.25-7-1989 it would be evident that the correctness or otherwise of the date of birth of the applicant was subjected to a detailed enquiry by concerned revenue officials. It is stated that the District Collector, Anantapur, on the basis of the enquiry held, informed the Director General and Inspector General of Police, that the correct date of birth of the applicant is 4-8-1954 and that his father's name is J.Venkataiah. Based on the report of the concerned officials, the State Government forwarded the case of the applicant to the Government of India for taking necessary action for correction of the date of birth of the applicant.

3. The Respondents in their reply affidavit have not refuted any of the facts as stated above and as averred in the Original Application. They however stated that when the applicant appeared for the interview/personal test after qualifying in the Civil Services Main Examination, 1980, he was informed of the discrepancy with regard to the date of birth and the name of his father as recorded in the school leaving certificate.

Whereas, the original discrepancy was to determine whether

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the correct date of birth of the applicant was 1-7-53 or 15-7-53, the applicant took his own time and after a lapse of about eight to nine years came up with the request for accepting his date of birth as 1-8-1954. The Respondents/rather critically viewed the applicant's inaction to get the school leaving certificate duly corrected even at the time when he joined Indian Revenue Service in 1953. Although the applicant passed SSC in 1969, evidently he took no action whatsoever to get the discrepancy in the SSC certificate corrected inspite of being a literate person. In view of this, the respondents contend that there was no justification in accepting the request of the applicant for changing his date of birth to 1-8-1954.

4. Heard learned counsel for both the parties. Shri N.V.Ramana, learned standing counsel for the Respondents placed reliance on Rule 16-A, Clause-4, All India Services (Death-cum-Retirement) Rules, 1958, to support the decision of the Respondents not to accept the applicant's/request. The said clause-4 of Rule 16-A reads as under :-

"(4) The date of birth as accepted by the Central Government shall not be is established that a bonafide clerical mistake has been committed in accepting the date of birth under sub-rule (2) or (3)."

The above rule makes it clear that when a date of birth is "accepted" by the Central Government it shall become final and shall not be subjected to any alteration except on the ground that there was a

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bonafide clerical mistake in accepting the date of birth. Shri M.R.K.Choudhary, learned counsel for the applicant has urged that the true meaning of Clause-4 of Rule 16-A is that the Central Government on its own volition can alter a Government employee's date of birth for the limited reason that there was a bonafide clerical mistake and the said rule does not, in any case, take away the right of the Government employee to seek correction of his date of birth. There is no doubt that a Government employee has a statutory right to continue in service till the age of superannuation, which is to be determined keeping in view the correct date of birth of the employee. From this point of view, the contention of the applicant's counsel merits consideration. Notwithstanding the same, clause (4) of Rule 16-A, in my considered view, applies to a case where the date of birth of an employee has been "accepted" by the Government. Once it is so accepted, it can be subjected to alteration by the Government only on the short ground as stated in the said clause.

5. Shri M.R.K.Choudhary, learned counsel for the applicant has also placed/reliance on note-6 below Fundamental Rule-56. The said note empowers Government Servant to ask for a change of his date of birth notwithstanding the fact that the date of birth as entered in his service book was based on the declaration made by him and accepted by the government.

6. In the instant case, the facts would clearly indicate that there was no acceptance of the date of birth of the applicant. In fact there could not be any such acceptance because

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the Union Public Service Commission itself detected the discrepancies in the SSC certificate and directed the applicant to get the discrepancies corrected so that a final and correct date of birth could be entered in the record of service. In other words, the applicant was still at the threshold of having his date of birth accepted by the Government. In view of this clear factual situation, neither clause (4), Rule 16-A of All India Services (Death-cum-Retirement Benefits), Rules, 1958, would come in the way of Government considering the request of the applicant nor there is any need for invoking note-6 to Fundamental Rule 56 in support of the plea of the applicant that he has the liberty of asking for a change of his date of birth. Both clause (4), Rule 16-A supra and note-6 to Fundamental Rule 56 refer to contingencies where the date of birth initially declared by the applicant is accepted by the Government. As in the instant case, the correct date of birth is yet to be determined, the factors that should guide in such determination are whether the plea of the applicant is genuine and bonafide, whether the material produced by the applicant in support of his plea is cogent and convincing and whether the acceptance of the request of the applicant would confer upon him any undue advantage to which he would not otherwise be eligible.

7. There does not seem to be any doubt about the correctness of the extract of the Births and Deaths Register produced by the applicant. In fact it was accepted as genuine by the concerned Civil Authorities who then recommended the

case to the Education Authorities. The latter accepted the recommendation of the Revenue Authorities and effected the

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necessary correction ⁱⁿ the school leaving certificate. Thus the date of birth came to be corrected in the school leaving certificate of the applicant as 1-8-1954.

8. The respondent's contention that the applicant took his own time and came up with a request for change of date of birth after a lapse of about eight or nine years, has some merit but cannot be made the sole ground for rejection of the applicant's request, more so when the request is genuine and bonafide. The record would indicate that soon after the applicant was informed of the discrepancy, he procured an extract from the Births and Deaths Register. The said extract is dt. 7-12-1981. Thereafter, it is perhaps on account of the fact that he was undergoing training in the Academy and was just beginning his career in IPS, that he could not promptly and ~~correctly~~ ^{effect} the correction of date of birth. In this context the applicant explained that he was not properly advised as to how to proceed in the matter. He approached an advocate who then sent a legal notice in 1985 to the Government. When advised that the education authorities should be approached in the first instance, he took up steps in that direction in 1988. After extensive enquiry at all levels his date of birth as recorded in the school leaving certificate was duly corrected by the competent authority on 5-8-1988. In these circumstances, the delay if any, between 1983, when the applicant joined IPS to 1988 is not so inordinate as would

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justify the respondent's decision to reject his request.

9. It is not the case of the respondents that if the applicant's request is accepted, it would confer upon him any undue advantage in the matter of his selection for IPS in 1981. From this point of view, it cannot be said that the request of the applicant for correction of date of birth is prompted by any ulterior motive. The facts show that he was left with no other alternative but to approach all the concerned authorities to correct the date of birth, in view of the discrepancies pointed out by the Union Public Service Commission. When in the course of his efforts, he obtained an extract of the Birth Register and found that his date of birth was recorded as 1-8-1954, there is no possibility of his having limited his prayer to correction of his date of birth either as 1-7-53 or 15-7-53. He had to request the authorities concerned to accept 1-8-1954 as his correct date of birth as was reflected in his Birth Register.

10. Learned counsel for the Respondent No.3 (Government of Andhra Pradesh), Sri Radhakrishna Murthy, produced before me the relevant record. The record clearly indicates that the genuineness or otherwise of the request of the applicant was subjected to a detailed enquiry at all levels before it was finally decided to accept the claim of the applicant that his correct date of birth is 1-8-54. The State Government having accepted the detailed enquiry report submitted by the Commissioner of

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Police, recommended to Government of India that necessary action be taken in the matter at an early date. Government of India, Ministry of Home Affairs vide its memo dt.6-4-94 chose to reject the representation of the applicant by means of a cryptic order, which merely stated that "it has not been found possible to accept the request".

11. The record produced by the learned standing counsel for Respondent No.1, shows that the entire case of the applicant was duly received by the Central Government and that the request of the applicant was rejected as already noted above.

12. In the light of the aforestated discussion, I find that there is merit in this O.A. and the same deserves to be allowed. Accordingly, Respondent No.1 is directed to consider the case of the applicant in the light of the above discussion and take suitable action for entering the correct date of birth as reflected in the Birth Register and as finally accepted by the Educational Authorities.

13. Original Application is ordered accordingly. No order as to costs.


(A.B. GORTHY)
Member (A)

Dated: 23rd June, 1995.
Dictated in Open Court.

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DEPUTY REGISTRAR(J)

- To
1. The Secretary, Ministry of Home Affairs, Govt. of India, New Delhi.
 2. The Secretary, Union Public Service Commission, New Delhi.
 3. The Chief Secretary, Secretariat Building, Govt. of A.P., Hyderabad.
 4. One copy to Mr. M.R.K. Choudary, Advocate, CAT, Hyderabad.
 5. One copy to Mr. N.V. Ramana, Addl. GSC, CAT, Hyderabad.
 6. One copy to Mr. J.V. Reddy, Addl. Secy, Hyderabad.
 7. One copy to Mr. J.V. Reddy, Addl. Secy, Hyderabad.
 8. One copy to Mr. J.V. Reddy, Addl. Secy, Hyderabad.
- YLKR

✓ COMPARED BY
APPROVED BY

THE HON'BLE ~~SRI A.V. HARIDASAN: MEMBER (J)~~

A ẸND

~~B. B. Jones~~

DATED 23.6.95

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

in

D.A. NO. 685/94.

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default

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