

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

O.A.NO.457/95

Between:

Date of Order: 3.10.95.

vs. State of Andhra Pradesh

...Applicant.

And

1. The Superintendent of Post Offices,
Karimnagar Division, Karimnagar District.
2. The Postmaster General,
Hyderabad, A.P.

...Respondents.

Counsel for the Applicant : Mr.P.Rathaiah, Advocate,

Counsel for the Respondents : Mr.N.V. Raghava Reddy, Addl.CGSC,CAT.

CORAM:

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

CONTD...

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O.A.No. 457/95

Date of Order : 13.10.95

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

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The applicant was appointed as Extra Departmental Branch Post Master at Venglaipet in Karim Nagar Division on 8.2.64. The respondents, taking the view that his date of birth was 1.7.30 retired ^{him} from service w.e.f. 1.7.95. The plea of the applicant is for a direction to the respondents to correct his date of birth ^{to} read as 15.6.34 and let him continue till he attained the age of retirement on the basis of the corrected date of birth. It is stated in the OA that in 1984 the Inspector of Post Offices, Jagityal ~~is~~ visited and recorded the descriptive particulars of the applicant in a document which is at Annexure A-2 to the OA. In the said document at Sr.No.3 he recorded the date of birth of the applicant as 6.5.35 and the age of the applicant as 49 years. Some other particulars such as the names of the near relatives of the applicant are also recorded in the said document. It is the contention of the learned counsel for the applicant that from the said document it is obvious that the respondents corrected/accepted the date of birth as 6.5.35. The applicant therefore did not bother to further agitate the matter. It was only in July 1994, when the applicant saw the gradation list, he found that his date of birth therein was recorded as 1.7.30. He immediately submitted a representation on 7.8.94 requesting for correction of his date of birth. His request was turned down by the impugned memo dated 10.10.94 on the ground that at the time of appointment the applicant himself had declared his date of birth as 1.7.90.

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4. Heard learned counsel for ...

5. The main thrust of the arguments advanced by the learned counsel for the applicant is that in 1984 the Inspector of Post Offices having visited the applicant's Post Office [✓] and having verified the facts, recorded in the descriptive particulars the date of birth of the applicant

35. The said recording of the date of birth by the Inspector of Post Offices clearly amount to acceptance of the date of birth as correct. At the same time clarified that the correct date of birth of the applicant is 10th Armeda 1343 Fasli, the equivalent of which is 15.6.34. The Inspector of Post Offices however wrongly calculated ^{it} as 6.5.35.

5. The second issue raised by the applicant's counsel is that the Transfer Certificate given by the Head Master Government High School, Jagityal clearly shows that the date of birth of the applicant is 10th Armeda 1343 Fasli (15.6.34). Although the applicant furnished a copy of the Transfer Certificate to the respondents, it was unfairly not taken into consideration by the respondents. Thus the applicant's counsel urges that the correct date of birth of the applicant being 15.10.34, it should be accepted ^{it} as such by the respondents.

6. The respondents sought to refute the claim ^{of} the applicant on the ground that at the time of appointment the applicant himself had declared his date of birth as 1.7.30 and that after ^a long period of 2 decades or 3 decades ^{he} ~~it~~ should not be heard to claim that the said date of birth was incorrect. The respondents ^{have} ~~has~~ shown me the official record ^{containing} an attestation form signed by the applicant dated 8.2.64. ^{it} On the same day, ~~which~~ was countersigned by the Sarpanch. The said attestation form (column 7) shows

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that the exact date of birth of the applicant was 1.7.30 and that the age at the time of appointment was 33 years. As regards the records of the descriptive particulars made by the Inspector of Post Offices the contention of the respondents is that the record was made on the information furnished by the applicant himself and that the said record by the Inspector of Post Offices would not amount to correcting or altering the date of birth of the applicant.

7. As regards the Transfer Certificate issued by the school authority the respondents alleged that the school authorities, when contacted, refused to show the records in support of the Transfer Certificate.

8. Two questions arise for my consideration in this case. Firstly, whether the date of birth now claimed by the applicant's counsel is correct and secondly whether the claim for correction of date of birth at this belated stage deserves to be considered.

9. From the Transfer Certificate issued by the Head Master, Jagityal it is evident that the date of birth of the applicant is 15.6.34. At the same time it cannot be disputed that it was on the basis of the declaration made by the applicant himself that his date of birth was recorded as 1.7.30 in the Service Record of the applicant. Further, I find that the descriptive particulars recorded by the Inspector of Post Offices cannot, by any stretch of imagination, be construed as an acceptance by the respondents of the claim of the applicant that his date of birth was 10th Armeda 1343 Fasli. A perusal of the descriptive particulars would indicate that the same were furnished by the applicant himself. The said document by itself cannot therefore entitle the applicant to claim a correction of his date of birth. There ^{is} ~~was~~ no doubt

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that a government servant acquires a right to continue in service till the age of superannuation unless his services ^{are} ~~were~~ terminated otherwise, in accordance with law. It cannot also be disputed that when there is cogent evidence to establish the correct date of birth of a government employee, that must be accepted, and acted upon by all concerned. It has also been held consistently that request for change of date of birth must be made within the time stipulated and where no time limit has been laid down it must be made within a reasonable time. As to what ~~is~~ reasonable time, depends on the facts and circumstances of the case.

10. In the instant case, the applicant joined service in 1964 and it was only in 1984 for the first time it was entered in the descriptive particulars that the date of birth of the applicant was 6.5.35. Moreover the applicant sought and obtained the Transfer Certificate ~~only~~ in the year 1991-92. His first representation to the department to correct his date of birth was made ~~only~~ in 1994, that is just prior to his superannuation from the service. His plea that he came to know that his date of birth was not recorded correctly only after seeing the gradation list cannot be accepted because of the fact that he had himself tried and obtained a transfer certificate in the year 1992.

11. In Union of India v. Harnam Singh AIR 1993 SC 1367 it has been categorically declared as under:-

"It is open to a Civil servant to claim correction of his date of birth if he is in possession of irrefutable proof relating to his date of birth as different from the one earlier recorded and even if there is no period of limitation prescribed for seeking correction of date of birth, the

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Government servant must do so without unreasonable delay". (underlined for emphasis).

12. As already noted, I find that the applicant has come up with the plea for correction of date of birth at the fag end of service, almost 3 decades after he entered into service. ^{His request at} ~~Such~~ a belated stage cannot be accepted. The OA is dismissed without any order as to costs.

(A.B.GORTHY)
Member (Admn.)

Dated: 13th October, 1995

(Dictated in Open Court)

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DEPUTY REGISTRAR(J)

TO

1. The Superintendent of Post Offices,
Karimnagar Division, Karimnagar District.
2. The Postmaster General,
Hyderabad, A.P.,
3. One copy to Mr.P.Rathaiah, Advocate, CAT, Hyderabad.
4. One copy to Mr.N.V.Raghava Reddy, Addl. GSC, CAT, Hyderabad.
5. One copy to Library, CAT, Hyderabad.
6. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

HON'BLE MR. A.B. GORTHI, ADMINISTRATIVE MEMBER.

HON'BLE MR.

JUDICIAL MEMBER.

ORDER/JUDGEMENT:

DATED: 3 / 10 / 1995.

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

IN

O.A.NO. 457/95

T.A.NO. (W.P.NO.)

ADMITTED AND INTERIM DIRECTIONS ISSUED.

ALLOWED.

DISPOSED OF WITH DIRECTIONS.

DISMISSED.

DISMISSED AS WITHDRAWN.

DISMISSED FOR DEFAULT.

ORDERED/REJECTED.

NO ORDER AS TO COSTS.

RSN/-

No spare copy

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