

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL-APPLICATION-NO.235-OF-1996

DATE-OF-ORDER:-13th June, 1997

BETWEEN:

Smt.J.SUDHA RANI

.. APPLICANT

AND

1. Union of India represented by its
Secretary to Govt, Ministry of Personnel,
Public Grievances & Pensions,
Dept. of Personnel & Training,
New Delhi,
2. The State of Andhra Pradesh,
represented by its Chief Secretary to Govt,
General Administration Department,
Secretariat Building, Saifabad,
Hyderabad 500 004.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.N.RAMA MOHANA RAO

COUNSEL FOR THE RESPONDENTS:Mr.V.BHIMANNA, Adl.CGSC for R-1
Mr.P.NAVEEN RAO for R-2

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

ORDER

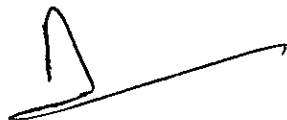
ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.Shiva for Mr.N.Rama Mohana Rao, learned
counsel for the applicant, Mr.V.Bhimanna, learned standing
counsel for R-1 and Shri P.Naveen Rao, learned ^{standing} ~~special~~
counsel for R-2.

2. The applicant in this OA is presently elevated to
the IAS Cadre of the Andhra Pradesh State. Earlier she was



working in the Revenue Service of the Govt. of Andhra Pradesh. Her date of birth was recorded as 4.3.49 in her service records when she was working in the State Government. She requested for correction of her date of birth to 8.5.51 which was not accepted by the State Government. Hence she filed Representation Petition No.1520/88 on the file of the Andhra Pradesh Administrative Tribunal. That RP was disposed of by the order dated 17.3.92 quashing the G.O.Rt.No.509 dated 20.4.87 and the memo No.4650/W1/87-3 dated 10.2.88 whereby her request for change of date of birth was not acceded to, with a further direction to the respondents to consider and decide her representation dated 26.9.81 submitted by her on merits afresh and according to law, keeping in view the observations made in that judgement in the RP. The applicant was promoted to IAS cadre on 23.12.94. The respondents in RP 1520/88 on the file of APAT viz, State Govt. of A.P. issued show cause notice in Memo No.39490/Ser.1/92-6 dated 6.10.93 (Annexure A-V at page 25 to the OA) directing the applicant herein to show cause why her request for correction of date of birth shall not be rejected. She was also advised to send reply within 15 days from the date of receipt of that memo. The applicant had submitted reply to the show cause notice to the State Govt. by her representation at Annexure A-VIII at page 35 to the OA). It is stated that no further action was taken by the State Govt. on receipt of the reply. Instead when she was elevated to the IAS cadre, her date of birth as entered earlier as 4.3.49 was informed to the Central Government. The entire record including the show cause notice for the reply was made over to the Central




Government. The Central Govt. on that basis passed the impugned Memo No.0174/Spl.A/95- dated 13.7.95 (Annexure A-VI at page 31 to the OA) rejecting her request for change of her date of birth as there was no clerical mistake in recording her date of birth. Even in the letter of the Central Govt. in the Memo No.25015/4/95-AIS-11 dated 23.6.95 (Annexure A-VI at page 32 to the OA) it is stated that the ~~Central~~ ^{State} Government before taking a final decision in regard to her explanation given to her show cause notice forwarded the case to the Central Govt. as she was appointed to IAS with effect from 23.12.94 and hence the case was referred to the Govt. of India.

3. This OA is filed praying for setting aside the order passed in File No.25015/4/95-AIS/11 dated 23.6.95 of R-1 of Central Govt. and for a consequential direction to R2 to decide and effect the corrections in the date of birth of the applicant duly incorporating the date of birth as 8.5.51 instead of 4.3.49 and to convey the same to the Union of India for its further acceptance under rule 16(A) (3 and 4) of the All India Services (Death-cum-Retirement Benefits) Rules and for further direction to R-1 to effect necessary correction in the records maintained by the Central Government.

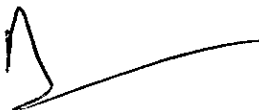
4. No reply has been filed in this connection both by the Central Government as well as the State Government.

5. The OA was adjourned ~~to~~ a number of times to enable the State Govt. to file reply. The standing counsel for the Central Govt. stated that it is only a proforma



party and the reply from the State Govt. is essential for deciding this case. The learned counsel for the State of A.P. expressed his inability to file reply as inspite of his repeated chasing, no reply is forthcoming. In view of the above circumstances, the OA is disposed of without waiting for reply as considerable time had already passed and repeated adjournements were granted for filing reply.

6. The APAT in RP 1520/88 directed the State Govt. by its order dated 17.3.92 to dispose of her representation dated 26.9.81 in regard to the correction of her date of birth. It is evident from the memo of the Central Govt. dated 23.6.95 that the State Govt. had forwarded the file in regard to her case for change of her date of birth without complying with the directions of the APAT to the Central Government as she was by then promoted to IAS cadre with effect from 23.12.94. The Central Govt. had rejected her case only on the sole ground that there was no clerical mistake in recording her date of birth in the records of the Central Govt. when she was elevated to the IAS cadre. The State Govt. should have complied with the directions of the APAT in RP 2520/88 in regard to her date of birth before forwarding the case to the Central Government. Even though she was elevated before deciding the case on the basis of the reply given to the show cause notice, the State Government should have waited to dispose of her case on the basis of the reply received to her show cause notice in regard to change of her date of birth as per the directions of the APAT and then the date which is finally decided should have been informed to the Central Govt. recording in the records of the Central Govt. on



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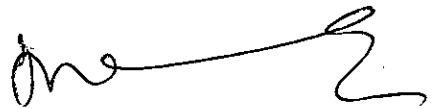
elevation to the IAS cadre. Merely by forwarding this case for taking a decision on the basis of the replies given to the show cause notice, it is to be construed that the State Govt. had not complied with the directions of the APAT in RP 1520/88. Hence the decision taken by the Central Govt. in regard to her date of birth cannot be sustained. In that view, the impugned order passed by the Central Govt. in No.25015/4/95-AIS-II dated 23.6.95 has to be set-aside. Though as per the All India Services Rules, the correction of date of birth can be done only if there is clerical mistake, in the present circumstances of the case, the Central Govt. should ^{not} have rejected her case ^{and} ~~who~~ instead should have remitted her case back to the State Govt. to decide the issue after going through the reply in response to the show cause notice issued by the State Govt. and then record her date of birth. The Central Govt. could have informed to the applicant in regard to her request for change of date of birth on the basis of the final decision taken by the State Govt. Instead of doing so, the Central Govt. had rejected her case on the technical ground that there was no clerical mistake in recording her date of birth in IAS cadre. ^{was} ~~was~~ ^{Jan} ~~Jan~~ ^{am} ~~am~~ unable to say why such a view was taken by the Central Govt. and ^{why} ~~the~~ State Govt. has not decided the case earlier ^{by} ~~forwarding~~ the whole case to the Central Government as there was no reply to the OA both by the Central Government and the State Government.

7. In view of the foregoing, the impugned letter NO.25015/4/95-AIS-II dated 23.6.95 is set-aside. The competent authority of the State Government is directed to dispose of her case as per the directions of the APAT in RP

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1520/88 after considering her reply to the show cause notice issued by R-2 dated 6.10.93. After a decision is taken by the competent authority of the State Govt. in regard to her date of birth, the same should be indicated to the applicant and to R-1. R-1 thereafter will enter the date of birth as decided above in the service records of

8. The OA is ordered accordingly. No order as to costs.



(R. RANGARAJAN)
MEMBER (ADMN.)

DATED: -13th June, -1997
Dictated in the open court.

Handwritten signature
Dy. Registrar (3)

vsn

Copy to:-

1. The Secretary to Govt, Ministry of Personnel Public Grievances, & Pensions, Department of Personnel & Training, Union of India, New Delhi.
2. The Chief Secretary to Govt., General Administration Dept., State of A.P. Secretariat Building, Saifabad, Hyd.
3. One copy to Sri. N. Rammohan Rao, advocate, CAT, Hyd.
4. One copy to Sri. V.Bhimanna, Addl. CGSC, CAT, Hyd.
5. One copy to Sri. P.Naveen Rao, SC for AP, CAT, Hyd.
6. One copy to Deputy Registrar(A), CAT, Hyd.
7. One spare copy.

Rsm/-

28/10/97
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR: M
(J)

DATED: 13/6/97

ORDER/JUDGEMENT

M.A./R.A./G.A. NO.

in

O.A. NO.

235/96

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions,

Dismissed

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

YLKR.

II Court.

