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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.738/96

Date of Order: 19.9.96

BETWEEN :

Syed Sulaiman

.. Applicant.

AND

1. The Executive Engineer, Hyderabad  
Central Division-I, C.P.W.D.,  
4-5-364, Nirman Bhavan,  
Sultan Bazar, Hyderabad.

2. The Superintending Engineer,  
Hyderabad Central C.P.W.D., S  
Nirman Bhavan, Sultan Bazar,  
Hyderabad.

3. The Secretary to the Government  
of India, Dept. of C.P.W.D.,  
New Delhi.

.. Respondents.

Counsel for the Applicant.

.. Mr.K.Venkateswara Rao

Counsel for the Respondents

.. Mr.V.Rajeswara Rao

CORAM:

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

J U D G E M E N T

{ Oral Order as per Hon'ble Shri R.Rangarajan, Member (Admn.) }

Heard Mr.K.Venkateswara Rao, learned counsel for the  
applicant and Mr.V.Rajeswara Rao, learned standing counsel  
for the respondents.

2. The applicant was appointed as Chowkidar under R-1 on  
8.6.59. It is stated that when he joined in June 1959, he had  
given a declaration stating that he was born in the year 1936.  
But the exact date and month of his birth was not known. Hence  
he was asked by a letter No. 14/44-NCD/16650-84, dt. 13.10.66  
(A-2) to indicate the exact date of birth to be recorded in  
the service book. He had given a certificate issued by a

Doctor stating that his date of birth is 12.4.37. He also produced a sworn declaration before the RDO, Hyderabad on 2.11.66 stating that his date of birth is 12.4.37 (A-4). The applicant was informed by the letter No.9(3)95/HCDI/957 dated 2.7.95 (A-7) that his date of birth cannot be changed from 1.7.36 to 12.4.37. The date 1.7.36 was entered in his S.R. as per the provisions of Rule 79 of G.F.R. As in the initial declaration he has given his year of birth as 1936 and the exact date and month was not given in the declaration at the time of his joining, his date of birth was entered in the S.R. as 1.7.36 in accordance with the provisions of the rule referred to above. He was informed that he will attain the age of superannuation on 30.6.96 on the basis of the date of birth entered in ~~the~~ his S.R. as 1.7.36.

3. Aggrieved by the above he has filed this OA challenging the letter No.15(PF)95/HCD.I/1315, dated 23.11.95 (A-1) whereby he was informed that he will superannuate on 30.6.96 and for a further direction to continue him in service treating his date of birth as 12.4.37.

4. The main contention of the applicant in this OA is that he has given the certificate indicating his date of birth as 12.4.37 way back on 1.11.66 and 2.11.96 in terms of A-9 and 10 respectively and also obtained the acknowledgement <sup>from respondents</sup> of having received those documents. The respondents waited till 2.7.95 to reject his case for change of date of birth. If they have informed <sup>him</sup> earlier he could have approached <sup>ed</sup> the competent authority for correction of his date of birth. As the case was delayed in informing him in regard to the correction of <sup>his</sup> ~~the~~ date of birth by the respondents they cannot now retire him taking his date of birth as 1.7.36.

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5. The learned counsel for the respondents submits that the date of birth as 1.7.36 was recorded in the S.R. of the applicant in terms of the rule 79 of GFR <sup>as</sup> and at the time of his joining service, he has given a declaration indicating his year of birth as 1936 without indicating the date and month. The documents submitted by him at page-9&10 of the OA showing his date of birth as 12.4.37 are not <sup>irrefutable</sup> ~~refutable~~ and <sup>hence</sup> ~~once~~ they cannot be relied upon. In view of the above the ~~applicant~~ applicant has not made out any case to grant the prayer.

6. The applicant will have a case to change the date of birth if he had submitted irrefutable records to show his date of birth as 12.4.37. If he had submitted an irrefutable documents the applicant could have granted the prayer for the change of date of birth. As the documents are not irrefutable <sup>ones</sup> ~~once~~ it is not for the Tribunal to take cognizance of such documents to grant him the relief prayed for by him in this OA. This in accordance with the judgement <sup>of</sup> ~~in~~ Appex Court in 1993 24 ATC 92 (Union of India vs. Harnamsingh).

7. The applicant has also not <sup>perused his Card when</sup> ~~opposed this~~ he had not received any reply from the respondents after submission of the documents to prove his date of birth way back in 1966. He approached this Tribunal at the fag end of his carrier. Correction of date of birth at the fag end of carrier can be accepted only if the documents produced by him can be relied upon <sup>fully</sup>. The above is also the ratio of the judgement in above referred judgement of the Appex Court.

8. In view of what is stated above I find no merit in this OA. Hence the OA is dismissed. <sup>NO COSTS.</sup>

*[Signature]*  
( R. RANGARAJAN )  
Member (Adm.)

Dated: 19th September, 1996

(Dictated in Open Court)

sd

*[Signature]*  
DY. Registrar (A)

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Copy to:-

1. The Executive Engineer, Hyderabad Central Division-I, C.P.W.D. 4-5-364, Nirman Bhavan, Sultan Bazar, Hyd.
2. The Superintending Engineer, Hyderabad Central C.P.W.D. Nirman Bhavan, Sultan Zabar, Hyd.
3. The Secretary to the Government of India, Dept. CPWD, New Delhi.
4. One copy to Sri. K.Venkateswara Rao, advocate, CAT, Hyd.
5. One copy to Sri. V.Rajeswara Rao, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

9/10/96

DA 738

Typed By  
Compared by

Checked By  
Approved by

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

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

DATED: 19/9/96

ORDER/JUDGEMENT  
R.A./E.P./M.A. NO.

O.A. NO.

738/96

ADMITTED AND INTERIM DIRECTIONS ISSUED  
ALLOWED  
DISPOSED OF WITH DIRECTIONS  
DISMISSED  
DISMISSED AS WITHDRAWN  
ORDERED/REJECTED  
NO ORDER AS TO COSTS.

YLKR

II COURT

No Spare Copy

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal प्रेषण/DESPATCH - 9 OCT 1996 हैदराबाद न्यायपीठ HYDERABAD BENCH
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