

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.1164 of 1997

DATE OF ORDER: *20th* APRIL, 1999

BETWEEN:

MAHABUB HUSSAIN

.. APPLICANT

AND

1. The Superintendent of Post Offices,
Mahaboobnagar Postal Division,
Mahaboobnagar,
2. The Postmaster,
Mahaboobnagar Head Post Office,
Mahaboobnagar,
3. The Director of Postal Services,
Hyderabad Region,
Hyderabad-500001.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.M.THIRUMALA RAO

COUNSEL FOR THE RESPONDENTS: Mr.V.VINOD KUMAR, Addl.CGSC

CORAM:

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

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

JUDGEMENT

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

None on either side.

2. The applicant in this OA was appointed as EDBPM, Gajulapeta B.O, with effect from 1.1.67 by the order dated 16.2.97. While he was working as EDBPM, he appeared for

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Group-D examination conducted by the Department and he was qualified for promotion. The applicant was appointed as Group-D with effect from 18.11.83 and he was allotted to SDI(P), Narayanpet Sub Division. At the time of his appointment, the SDI(P) Narayanpet ~~and~~ the sub appointing authority had opened the first page of service book of the applicant wherein the date of birth of the applicant had been noted as 16.12.1936. It is stated that the applicant had signed the service book as a token of having verified the entry by the SDI(P). The applicant was promoted as Postman by the order dated 15.2.84 but he sought reversion on his own and joined Class-IV at Mahaboobnagar HPO. The applicant submits that he was never asked to produce any school certificate as in those days neither the age nor the qualification was the criteria for appointment in Group-D post. However, when he was selected as Postman, he was asked to prove his date of birth. Accordingly, he submitted the extract of the Birth and Deaths Register maintained by the then Police Patel and his date of birth was noted as 11.12.1946. This date of birth, he submits, was incorporated in the service records including in the gradation list as on 1.7.94.

3. While the matter stood thus, R-1 by his letter dated 12.10.95 issued orders that the date of birth of the applicant as noted in the Divisional Gradation List of Group-D officials is 16.12.1936 (Annexure A-I at page 14 to the OA). He submitted representation addressed to R-1 on 13.11.95 (Annexure A-II at page 15 to the OA) for correcting his date of birth as 11.12.1946 instead of 16.12.1936. But he was replied by the letter dated

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16.11.95 (Annexure A-III at page 16 to the OA) stating that the applicant's date of birth was not corrected but based on the inquiry made by the then S.P.Os, only Corrigendum was issued. Aggrieved by the above reply, the applicant filed OA 1505/95 on the file of this Bench which was disposed of on 29.2.96 (Annexure A-VIII at page 21 to the OA) directing the applicant to make a detailed representation to the Director of postal Services which is to be disposed of by him within three months from the date of receipt of the representation from the applicant. The applicant submitted representation on 21.3.96 addressed to the Director of Postal Services and that was replied by the impugned memo No.ST/LC-84/95, dated 30.8.96 (Annexure A-X at page 25 to the OA) rejecting his claim for correcting the date of birth as 11.12.1946.

4. This OA is filed to set-aside the Corrigendum No.B1/DGL/Dlgs. dated 12.10.95 of R-1 (Annexure-I at page 14 to the OA) as upheld by R-3 by the impugned letter No.ST/LC-84/95, dated 30.8.96 by declaring them as arbitrary, illegal and for a direction to the respondents to treat the date of birth of the applicant as 11.12.1946 instead of 16.12.1936 with all consequential benefits.

5. The main contention of the applicant is that at the time of joining the ED post he had ~~to~~ submitted ^{the} details regarding his date of birth. He was allowed to sit for the examination for the post of Postman and if he ~~is~~ ^{was} more than 40 at that time, he would not have been posted as Postman but he was selected as Postman also as he was less than 40 years of age at that time which would mean that he was born

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on 11.12.46 and not on 16.12.36. He also submits that the Police Patel had given him the certificate based on which his date of birth is to be noted as 11.12.46 which has to be incorporated in the service record. The applicant also submits that no opportunity was given to him to explain his case before correcting his date of birth. On all these counts, the applicant submits that the OA has to be allowed and his date of birth has to be corrected as 11.12.46 instead 16.12.36.

6. The applicant filed OA 1505/95 which was disposed of by directing him to file a representation to the Director of Postal Services and further directing the Director of Postal Services to dispose of his representation. The applicant accordingly submitted representation on 21.3.96 which was disposed of by the Director of Postal Services by Memo dated 30.8.96 (Annexure-X at page 22 to the OA). The contentions raised in that representation were analysed by the Director of Postal Services and he had given a very comprehensive reply to all the contentions raised by him in his representation. Instead of narrating the reply given by him, it is preferable to reproduce the reply given to the applicant by the Director of Postal Services in his letter dated 30.8.96. The relevant portion of that reply reads as below:-

"1) First of all this is not the case of correction of date of birth. SPOs, Mahbubnagar has ordered for correction of date of birth of the official as

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noted in the Gradation List. The Gradation List is circulated among the staff mainly to inform the officials about their interse seniority. Any mistake committed at the time of preparation of Gradation List can be corrected by the Divisional Superintendent and this is not to be termed as a correction of basic service record. As far as the date of birth is concerned the service book of the official only is to be relied upon and this is the basis for deciding the benefit due to the official while in service or after retirement. In this particular case, the date of birth of the official is clearly recorded as 16.12.1936 on the fist page of the Service Book against Column No. 6. No correction was ordered by the SPOs to this entry made in the Service Book and hence no correction was made in the basic service record of the official.

2) It is noticed that Sri Mahabub Hussain has signed in the Service Book on 23.04.1987 and on 13.09.1995. It is not believable that the official had not identified the Service Book at the time of putting his signature. It is also not believable that the official

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had signed on the blank first page of the Service Book.

3) The Service Book of the official was opened by the Postmaster, Mahbubnagar HO and not by the SDI(P), Narayanpet, as stated by the official in his representation.

4) In the questionnaire filled in and submitted on 09.07.1966, at the time of appointment as ED Agent by the applicant, the educational qualification is mentioned as "9th Class" and the date of last leaving and school as "02.04.1955". This is contrary what the official has mentioned in his representation. If his date of birth was to be 11.12.1946 as contended by the official he would have been studying in 9th Class at the age of 9 years. Since this is not reasonably practicable the date of birth of the official cannot be taken as 11.12.1946.

5) Sri Mahabub Hussain submitted representation on 24.12.1966 to IPO., Mahbubnagar, with a request to appoint him as BPM., Gajulpet. In the said representation he stated that he worked

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in the following capacities on temporary basis for the period noted against each.

Sl. No.	Designation	From	To
1.	EDDA	23.9.58	2.5.59
2.	Postman	3.5.59	21.5.59
3.	EDDA	1.6.59	19.1.60
4.	EDDA	2.5.60	8.5.60
5.	EDDA	23.5.60	31.5.60
6.	EDDA	24.6.60	5.7.60
7.	EDME Annasagar (Masoom arrangement)	1.8.61	Not known
8.	BPM, Gazulpet	17.1.66	22.1.66

If the contention of the applicant was to be believed he would have been 12 years old by the time he started working in the Department on temporary basis. As this is highly improbable, the contention of the applicant i.e., he was born in 1946 cannot be believable.

6) Further the Health Certificate dated 17.11.1966 issued by the Assistant Surgeon, P.H.C. Janampet, which bears the signature of the

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applicant who submitted this at the time of his appointment, has a clear mention of his age. The certificate says, "His age is according to his own statement 30 years, and by appearance about 30 years". It is clear that the applicant had stated his age as 30 years when he appeared before the Doctor for Medical examination on 17.11.1966. Hence according to his own statement he should have born in 1936 and not in 1946.

7) The applicant was appointed as Group-D in the Department on 16.11.1983. Since he is in the Department for more than 5 years, no change can now be made in the date of birth recorded in the service records of the official, as per the rules on the subject, as decided by the Supreme Court in Civil Petition No.502 of 1993 dt.09.02.93."

7. Even though the Director of Postal Services has given reply as above, none of the above points mentioned in the reply has been contested by the applicant in this OA except saying that his date of birth was not at all recorded as 16.12.1936 but it was recorded only as 11.12.1946. In view of the fact that the applicant himself had signed the service record wherein his date of birth was recorded as 16.12.1936, the applicant cannot now submit

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that he has not signed the service book. He cannot now withdraw his own signature without giving suitable reason for saying so. The applicant has not denied that the signature in the service book is not his signature. It is not necessary for us to further analyse the various minor contentions raised by the applicant in this OA. However, the following points need to be recorded:-

i) The applicant's brother who was Mail Overseer in the Department was found to be three or four years elder to the applicant but his brother's date of birth was recorded as 1.7.1932. If the applicant is only 3 or 4 years younger to his brother, his date of birth cannot be 11.12.1946 and it has to be 16.12.1936. This has not been contested by the applicant by filing a rejoinder;

ii) The applicant filled up a questionnaire while he was appointed as EDBPM, Gajulpet BO stating that he had left school in IXth class on 2.4.1955. If his date of birth had been taken as 11.12.1946, his age as on 2.4.1955 when he joined as EDBPM would have been 9 years only. None can study 9th class at the age of 9 years, submits the respondents. This also was not contested by the applicant;

iii) The applicant was asked to produce proof of his date of birth while inquiring into this issue. But the applicant ~~had~~ ^{was} not given any proof whatsoever regarding his date of birth. When the applicant could not produce any proof when asked for, he cannot now submit that his date of birth has to be corrected;

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iv) As per the representation dated 10.7.1966 submitted by the Villagers of Gajulpet recommending the applicant for the post of EDBPM, his age was noted as 29 years which in fact the date of birth should have been 1937 only but not 1946. This point also was not controverted by the applicant by filing a rejoinder;

v) The respondents also denied the fact that the date of birth of the applicant as 11.12.1946 was incorporated in the service records as per the extract of Birth and Deaths' Register maintained by the then Police Patel. This point also was not challenged by the applicant either in the OA affidavit or by filing a rejoinder.

8. Considering the above points, we are of the opinion that the applicant has not made out any case for correction of his date of birth as 11.12.1946 instead of 16.12.1936 and on that basis continue him in service.

9. In view of the above appreciation of this case, the OA is liable only to be dismissed and accordingly it is dismissed. No order as to costs.


(B.S.JAI PARAMESHWAR)
MEMBER (JUDL.)

20.4.99


(R.RANGARAJAN)
MEMBER (ADMN.)

DATED : 20th APRIL, 1999

vsn

1ST AND 2ND COURT

COPY TO:-

1. H.D.H.N.J
2. H.H.R.P. M.(A)
3. H.B.S.J.P. M.(S)
4. B.R.(A)
5. SPARE

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR :
VICE - CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD :
MEMBER (A)

THE HON'BLE MR. R. RANGARAJAN :
MEMBER (A)

THE HON'BLE MR. B. S. JAI PARAMESWAR :
MEMBER (S)

DATED: 20/4/99

ORDER / JUDGEMENT

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

IN
C.A. No. 1164/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED.

C.P. CLOSED.

R.A. CLOSED.

DISPOSED OF WITH DIRECTIONS.

DISMISSED.

DISMISSED AS WITHDRAWN.

ORDERED/REJECTED.

NO ORDER AS TO COSTS.

SRR

केन्द्रीय अधिकारिक विधिकरण
Central Administrative Tribunal
ब్రంభ / DESPATCH
- 6 MAY 1999
हైదరాబాద ధ్యానపీఠ
HYDERABAD BENCH

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