

(19)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

CA.1450/97

dt.16-3-98

Between

M.V.N. Acharyulu

: Applicant

and

1. General Manager
Telecom
Rajahmundry
East Godavari Dist.

2. Director of School Education
Hyderabad

: Respondents

Counsel for the applicant

: A. Anasuya
Advocate

Counsel for the respondents

: V. Rajeswara Rao
CGSC

Coram

HON. MR. R. RANGARAJAN, MEMBER (ADMN.)

Order

Oral order (per Hon. Mr. R. Rangarajan, Member (Admn.)

None for the applicant. Mr. V. Rajeswara Rao for the respondents.

1. The applicant's counsel requested for adjournment on 9-1-1998 and 18-2-1998. Adjournments were granted and it is posted today for orders. Inspite of repeated adjournments the learned counsel for the applicant is not present even today. Hence, the OA is disposed of under Rule 15(1) of the CAT Procedure Rules, 1987.

2. The applicant was appointed as Technician in the erstwhile Hyderabad Engineering Division with effect from forenoon of 25-1-1975. In the S S L C Register of the applicant his date of birth is entered as 22-5-1949. The same was entered in the Service Book of the applicant and the applicant ^{had also} ~~had also~~ signed on 23-1-1976.

3. On 20-8-1996 the applicant submitted an application for change of date of birth from 22-5-1949 to 27-10-1950 on the basis of birth certificate issued by the Registrar of Births and Deaths, Municipal Corporation, Rajahmundry on 22-7-1996. The request of the applicant was rejected by the impugned order No.E.23/TTA/Genl/I/37 dated 18-9-1996 (Annexure A.4), on the basis of the notification No.19017/7/79, Ests(A) dated 30-11-1979 issued by Govt. of India, Dept. of Personnel and Admn. Reforms published as SO-3997 in the Gazette of India dated 15-12-1979 which takes effect from that date. This notification is enclosed as annexure to the reply.

..2.



4. This OA is filed praying for a direction to the respondents to correct the date of birth of the applicant as 27-10-1950 instead of 22-5-1949.

5. The applicant approached for correction of date of birth 20 years after he joined the service. As per the notification dated 30-11-1979 alteration of date of birth of a Government servant can be made if a request in this regard is made within five years of his entry into Government service. The above is Note-5 below FR-56. Apex Court in the case of Union of India Vs. Harman Singh (1993(2)SLR42) upheld Note 5 under the said FR.56 and observed as follows:

"It would be appropriate and in tune with harmonious construction of the provision to hold that in case of those Govt. servants who were already in service before 1979, for a period of more than five years and who intended to have the date of birth altered after 1979, may seek the correction of date of birth within reasonable time after 1979 but in any event not later than five years after coming into force of the amendment in 1979. This view would be in consonant with the intention of rule making authority."

The High Court of Kerala in the case of V. Narayan Nambiar Vs. DEO Kozhikode(1983(1)SLJ695) had decided that

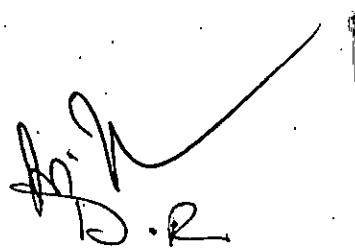
"In case where the date of birth entered in the School records is wrong it has to be corrected first only thereafter an application for correction of date of birth in service register can be made".

In the present case the date of birth entered in the SSLC register is not correct.



5. In view of what has been stated, I find no merit in this OA. Hence the OA is liable to be dismissed and accordingly it is dismissed. No costs.


(R. Rangarajan)
Member (Admn.)


Dated : March 16, 98
Dictated in Open Court


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OA.1450/97

Copy to:-

1. The General Manager, Telecom, Rajahmundry, E.G.Dist.
2. The Director of School Education, Hyderabad.
3. One copy to Mr. A. Anasuya, Advocate, CATs, Hyd.
4. One copy to Mr. V. Rajeswara Rao, Addl. CGSC., CATs., Hyd.
5. One copy to D.R.(A), CATs., Hyd.
6. One duplicate copy.

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27/3/98
27/3/98 (6)

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

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

DATED : 16/3/98

ORDER/JUDGMENT

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

in
D.A. NO. 1450/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR

