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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

OA.~~xxx~~ 164 /97 dt.21-5-98

Between

K. Appa Rao : Applicant

and

1. Union of India, rep. by
its Secretary, M/o Defence
New Delhi

2. Chief of Naval Staff
Naval Head Quarters
New Delhi

3. Flag Officer Commanding in Chief
Eastern Naval Command
Naval Base, Visakhapatnam

4. General Manager
Naval Armament Depot
Visakhapatnam : Respondents

Counsel for the applicant : P.B. Vijayakumar
Advocate

Counsel for the respondents : V. Rajeswara Rao
CGSC

Coram

Hon. Mr. H. Rajendra Prasad, Member(Admn.)

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OA. 164 /97 dt.21-5-98

Order

Order (per Hon. Mr. H. Rajendra Prasad, Member(Judl)

The applicant was recruited in Madras Regiment of the Indian Army and, after serving in the Infantry unit for about 20 years, was discharged in the normal course. He joined the Naval Armament Depot in 1967. It is claimed by him that his name was sponsored to the Depot by the Employment Exchange and that he was reemployed under the Ex-Servicemen Quota. The Army discharge Certificate showed his date of birth as 1-7-1939 .

2. Prior to his joining the Depot in the new assignment he was subjected to a medical examination and it was certified by the concerned medical officer that the age of the applicant, according to his own statement, was 27 years but by appearance he was 30 years of age. His date of birth was recorded in the Depot's records on the same basis. The applicant is aggrieved by the fact that his date of birth as recorded in Army Discharge Certificate was ignored by the authorities of the Depot and only an approximate age was entered in the Service book. In march, 1996 a representation was submitted by the applicant with which he enclosed the Army Discharge Certificate. In reply thereto, he was asked to produce ~~to produce~~ any other evidence like Birth or School Certificate. The response of the applicant to this was that he had not studied anywhere and that therefore he could not produce a School certificate or any evidence or record to substantiate his claim. The applicant's request for a change in his date of birth was considered at the highest level i.e., Naval Headquarters. In the process, the authorities also addressed the Madras Regiment Record Office

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for verification of the applicant's date of birth as may have been found recorded in the regimental records. The position, as known to the Record office was communicated to the Depot. The applicant argues that his date of birth, along with that of four of his other colleagues was uniformly recorded as falling on the same date evidently relying on the assessment of age as made by the Medical Officer concerned. His plea is that the respondents' decision to retire him from service on the basis of a wrongly-recorded date of birth is without any valid basis.

3. The applicant had earlier filed OA.1484/96 which was disposed of by this Tribunal on 20-12-1996 by directing Respondent-2 to dispose of the representation pending at the time before him. Thereupon the representation was duly disposed of by turning down the request for change of his date of birth.

4. It is claimed by the applicant that his correct date of birth, based on the Army Discharge Certificate, had been correctly recorded in the Employment Exchange which later sponsored his name for appointment under the Ex-Servicemen quota; that a common date of birth recorded in the case of as many as five different recruits was full of improbability.

5. The applicant therefore prays for a direction to the respondents to rectify what he calls the incorrectly recorded date of birth and to re-enter the date is keeping with the date recorded in the Army Discharge Certificate and to continue him in service till such time that he becomes due for retirement on the basis of the altered date of birth or, in the alternative, to direct the respondents to make payment of salary and other benefits for the remaining period which has to be determined on the basis of his 'correct' date of birth.

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6. The respondents in their counter-affidavit submit that once a particular date has been assessed based on a proper medical examination and has subsequently been recorded in the Service Book the applicant cannot press for any alteration in the date of birth. It is their contention that even the date recorded by the Army authorities was based on the applicant's own declaration, - and not on the basis of any proof or document, - at the time of his joining the army. They also state that the applicant was neither required nor did he produce any Army Discharge Certificate at the time of recruitment in the Depot, that he had all allong been aware of the date of birth as recorded in his Service documents ever since his joining the Depot. They deny that the applicant was appointed on the basis of his Army Discharge Certificate and state that his recruitment was in the normal course and not under Ex-Servicemen quota and that the date of his birth and age was assessed by their medical officer as per the usual practice followed in all such cases where the candidate is unable to produce any proof of his age. It is also not true that the applicant's Army service was ever sought to be, or allowed to be merged with his subsequent present civil service. It is stated that the applicant's army service is in no way linked to his appointment in the Depot. Since the applicant had not made any request for change in the date of birth within five years from the date of his joining the Depot, the request o could not be accepted as per rules in vogue. He had never before brought out the issue of any divergence between the dates as recorded in the Army Discharge Certificate and the Service Book maintained in the Depot. Ultimately, he made a request for alteration of the date 27 years after he entered the service of Depot, on the very verge of his ensuing

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retirement. The date which was entered in the Service Book had also been duly entered in the identity card issued to him and the applicant had never objected to this date at any stage. It is finally submitted once again that he was not recruited or reemployed by the Depot under the Ex-servicemen quota nor was there any question at any time of protecting his pay for the past service in the army. The respondents, therefore, insist that there is no merit in the OA and the same deserves to be dismissed.

7. The facts have been carefully considered. The applicant was appointed as long back as on 20-2-1967. He had submitted himself to a proper medical examination by a competent medical officer and acquiesced in age as determined by the said medical officer and the date later recorded in his Service documents. The date recorded in his original infantry unit (Madras Regiment) was itself was not based on any document of any sort since, according to the applicant himself, he had not studied in any school and had no proof of any kind regarding his age. Under the circumstances, the date which was recorded even in the army documents was in all probability based on his own statement at the time of his initial recruitment. There is no particular sanctity or infalibility attached to that date for the simple reason that the same was not based on any document or dependable proof but only on the statement of the applicant himself. Furthermore, the applicant never brought up any grievance regarding alteration of his date of birth until he had reached the very threshold of his retirement.

8. It is by now well-established that any request for a change in the date of birth has to be initiated reasonably early in one's career, and within certain time-limits. The rules as well as the case-law as evolved or laid down by various Courts, including Hon'ble Supreme Court, envisage that unless

there is an overwhelming justification, based on irrefutable documentary proof thereof, there would normally not be any scope for any alterations in the original date as recorded at the time of initial service. In this particular case, there is not only no supporting evidence or reliable proof but even the lone document viz. Army Discharge Certificate, itself seems to be based on a vague and imprecise declaration made by the applicant at the time of his initial recruitment in the army. This cannot be taken as a strong enough and acceptable proof. Consequently, no strong justification has been made out for any change in the date of birth already recorded. While the OA need not be rejected on the grounds of limitation or of delay and laches, as argued by the Respondents, the prayer contained in it has to be disallowed on the grounds of merit.

9. I do not find any ground on which this Court could interfere in the matter. The OA is disallowed.

(H. Rajendra Prasad)
Member(Admn.)

Dated : 21-5-1998

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10/6/98

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COMPARED BY APPROVED BY

IN THE CENTRAL ADMINISTRATIVETRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE

VICE-CHAIRMAN
AND

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

DATED: 21-5-1998.

ORDER/JUDGMENT

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

in

O.A.No. 164/97

T.A.No. (w.p.)

Admitted and Interim directions issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

pvm.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ
HYDERABAD BENCH

3 JUN 1998

Despatch No.

विभाग/SECTION