

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.211/2000

Date of order: 14/12/2001

Babu Lal Gupta, S/o Sh.S.L.Gupta, R/o Sniv Colony,
behind Nai Mandi, Hindaun City.

...Applicant.

Vs.

1. Union of India through Secretary, Govt of India,
Deptt. of Posts, Mini.of Communications, Dak Bhavan,
New Delhi.
2. Chief Post Master General Rajasthan Circle, Jaipur.
3. Supdt.of Post Offices, Dholpur Postal Division,
Dholpur.
4. Post Master Bayana Head Post Office, Bayana.

...Respondents.

Mr.C.B.Sharma

: Counsel for applicant

Mr.R.L.Agarwal, Proxy of Mr.Bhanwar Bagri, for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

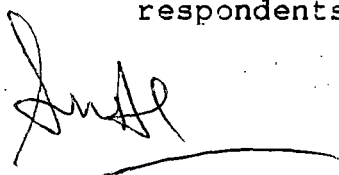
PER HON'BLE MR S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the ATs Act, 1985,
the applicant makes a prayer to quash the letter dated
14.2.2001 (Annx.A1) and to direct the respondents to allow
the applicant to serve the department upto 31.3.2003 by
considering his date of birth as 6.3.1943 in place of
3.3.1941 and to allow all consequential benefits.

2. Facts of the case as stated by the applicant are
that the applicant was initially appointed as EDBPM on
25.12.1961 and thereafter appointed as Postman on 9.1.83.
The date of birth of the applicant as per the certificate
obtained is 6.3.1943. It is stated that in the year 1998, it
has come to the notice of the applicant that his date of

birth has been recorded as 3.3.1941 instead of 6.3.1943. The applicant immediately requested on 15.1.98 to respondent No.4 to correct the date of birth in the service record. Respondent No.3 directed the applicant to submit original T.C vide his letter dated 19.1.98 and applicant submitted the same on 22.1.98. It is stated that respondent No.3, without any basis recorded his date of birth as 3.3.1941 instead of 6.3.1943 and as per educational certificate for Vth Standard the date of birth of the applicant is 6.3.1943. It is stated that the order dated 14.2.2001 was issued without conducting any enquiry and without going through the record available with the respondents and retired him w.e.f. 31.3.2001. Therefore, the action of the respondents is arbitrary, illegal, unjust and against the rules and regulations. Hence, the applicant filed this O.A for the relief as above.

3. Reply was filed. In the reply, it is stated that the applicant raised the objection for change of his date of birth only when he was at the verge of retirement. If the applicant had any grievance, he would have raised the same within 5 years of service from the date of appointment and particularly when his service record was prepared and he signed the first page of his Service Book. It is stated that the applicant entered into the respondents' department on 25.12.61 as EDBPM and furnished his descriptive particulars noting his date of birth as 3.3.1941 and on 9.1.1983 he signed the first page of his service Book in which the date of birth was noted as 3.3.1941. If he had any objection, he could have pointed out the same at that moment while signing the document. It is stated that the applicant requested the respondents' department for the first time in the year 1998



but he could not furnish any authenticated certificate and simply produced the duplicate TC. It is stated that the claim of the applicant is belated and cannot be entertained. Therefore, the applicant has no case.

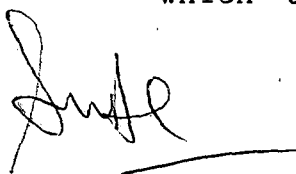
4. Heard the learned counsel for the parties and also perused the whole record.

5. On a perusal of Service record, it appears that the applicant himself gave his description including his date of birth and he categorically mentioned his date of birth as 3.3.1941 at the time of entering in service.

6. It is also apparent that at the time of superannuation, the applicant himself has mentioned his date of birth as 3.3.1941 and his date of retirement as on 31.3.2001 in all the forms which are necessary to be filled-up for the purpose of sanctioning of pension and commutation. It is an admitted fact that the applicant did not raise this issue before 1998 or he has not raised this issue within 5 years from the date of entry into service, as per the provisions of FR 56.

7. The learned counsel for the respondents by an affidavit filed a copy of judgment in Union of India Vs. Harnam Singh, decided on 9.2.93 by Hon'ble Supreme Court and argued that request for correction of date of birth at the far end of service cannot be entertained, even it may be genuine one.

8. In this case, the applicant has no proof except the duplicate TC issued by the School by which it appears that the name of the applicant was removed from the class because of continuous absence when he was a student of Class VII. But the same does not appear to be the same certificate which the applicant might have submitted at the time of

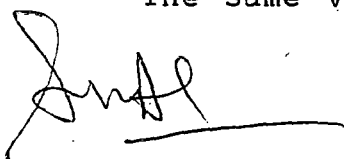


entry into the service and which has been referred in the Service Book as in the Service Book qualification of the applicant have been shown as Class V.

9. Hon'ble Supreme Court in catena of judgments dealt with the matter of date of birth and law has been propounded in the subject.

10. In Harnam Singh Vs. UOI, AIR 1993 SC 1367, In the absence of any provision in the rules for correction of date of birth the general principle of refusing relied on the grounds of laches or stale claim is generally applied by Courts or Tribunals. It is nonetheless competent for the govt to fix a time limit in service rules after which no application for correction of date of birth of a Govt servant can be entertained. A govt servant who makes an application for correction of date of birth beyond the time so fixed, therefore, cannot claim as a matter of right the correct of date of birth even if he has good evidence to establish that recorded date of birth is clearly erroneous. The law of limitation may operate harshly but it has to be applied with all its vigour and courts or tribunals cannot come to the aid of those who sleep over their rights and allow the limitation to expire.

11. In State of Tamil Nadu Vs. T.V.Venugopalan, (1994) 6 SCC 302, the Supreme Court had repeatedly been holding that inordinate delay in making the application is itself a ground for rejecting the correction of date of birth. The Govt servant having declared his date of birth as entered in service register to be correct, would not be permitted at the fag end of his service career to raise a dispute as regards the correct of the entries in the service register. The same view has been reiterated by the Supreme Court in



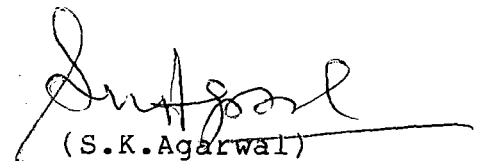
Burn Standard Co. Ltd Vs. Denbandhu Mazundar & Anr, 1995 4 SCC 25 and in General Manager, Bharat Cooking Coal Ltd. Vs. Snib Kumar Dushad & Ors, Civil Appeal No.6142/2000 decided on 2.11.2000.

12. In Union of India & Ors Vs. Suraj Bala, (1996) 32 ATC SC 658, The claim for alteration of date of birth was denied and there Lordship observed . It is unthinkable that having been born in educated family and having remained in service for 18 years, she discovered that her date of birth is wrong.

13. In Union of India Vs. C.Ramaswamy & Ors (1997) 4 SCC 647, it was held that date of birth as recorded in the service record and the date declared by an officer in his application for recruitment has to be accepted as correct and cannot be altered unless it is established that a bonafide mistake has been committed in accepting the date of birth.

14. In this case, the applicant failed to establish the fact that any bonafide mistake have been committed in accepting the date of birth of the applicant. Therefore, the applicant has no case for interference by this Tribunal and this O.A devoid of any merit is liable to be dismissed.

15. I, therefore, dismiss this O.A having no merits with no order as to costs.


(S.K.Agarwal)

Member (J).