

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 18.12.2001

OA No. 326/2001

Babu Lal Verma s/o late Shri Kajorijee c/o Divisional Electrical Engineer, Divisional Railway Manager's Office, Western Railway, Ajmer

..Applicant

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager (Estt.), Western Railway, Ajmer.
3. Divisional Electrical Engineer, Western Railway, Ajmer.
4. Divisional Accounts Officer, Western Railway, Ajmer.

.. Respondents

None present for the applicant

Mr. R.G. Gupta, counsel for the respondents

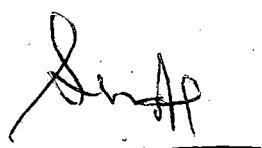
CORAM:

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

ORDER

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

In this Original Application the applicant makes a prayer to quash and set-aside the order dated 11.5.2001 (Ann. Al) issued by respondent No. 2 and to direct the respondents to allow the applicant to continue in service beyond 31.8.2001 till he attains his actual age of superannuation as per his date of birth recorded in the

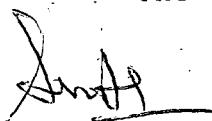


the applicant's service book at the time of joining the railway service.

2. Reply to this OA has been filed and in the reply it is stated that at the time of initial appointment, age of the applicant was recorded as 23 years and his date of birth as per record of service is 15th August, 1941 and not 5.8.1946. It is stated that in the seniority lists published by the answering respondents from time time to time, date of birth of the applicant has been shown as 15.8.1941. It is also stated that applicant was initially appointed as Apprentice Mechanic on 23.10.64 and he has passed his intermediate examination from Rajasthan University in the year 1957. Hence it is impossible that applicant could have passed the intermediate examination at the age of 11 years, if the contention of the applicant is taken as true. It is stated that applicant has raised this issue only at the fag end of his service career which is not permissible and applicant has no case for interference by this Tribunal.

3. Heard the learned counsel for the respondents and also perused the averments made by the applicant in this OA and all relevant documents produced before me by the parties to the litigation.

4. It appears that in service sheets date of birth of the applicant has been recorded as 15th August, 1941 and this date of birth has been duly acknowledged and verified by the applicant himself. Not only this, but in the seniority lists prepared by the department in the year

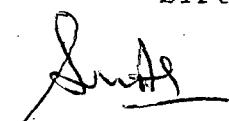


1977 and 1998 date of birth of the applicant has been recorded as 15.8.1941. It appears that applicant has raised this issue at the fag end of his service career, therefore, same is not permissible as per law.

5. In Harnam Singh v. UOI, AIR 1993 SC 1367, it was held that 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 latches 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 correction of date of birth even if he has good evidence to establish that recorded date of birth is clearly erroneous.

6. In Union of India and ors. v. Saroj Bala, (1996) 32 ATC 658, the claim for alteration of date of birth was denied and their Lordship observed that 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.

7. In State of Tamilnadu v. 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 of 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 correction of the entries in the service register. The same view has been reiterated by the Supreme Court in Burn Standard Co. Ltd. v. Devband Mazumdar and anr., (1995) 4 SCR 25.

8. In General Manager Bharat Cooking Coal Ltd. v. Shib Kumar Dushad and ors. in Civil Appeal No.6/42/2000 decided on 2.11.2000 and Union of India v. Ramaswami and 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 accepterd as correct and cannot be altered unless it is established that a bonafide mistake has been committed in accepting the date of birth.

9. In the instant case, applicant failed to establish the fact that there has been any bonafide error on the part of the respondent department in recording his date of birth in the service record. Therefore, at the fag end of the service career, if applicant makes a prayer to change his date cf birth, that cannot be allowed unless there is a bonafide error. Thus, applicant has no case for intereference by this Tribunal and this OA is devoid of any merit and is liable tc be dismissed.

10. I, therefore, dismiss this OA having no merits with no order as to costs.


(S.K.AGARWAL)

Judl.Member