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5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No...... 438/2000
R.A/C.P No......
E.P/M.A No......

- 1. Orders Sheet.....Pg..... 1.....to..... 3.....
- 2. Judgment/Order dtd..... 26-9-2000 Pg..... 1.....to..... 3 / Dismissed
- 3. Judgment & Order dtd.....Received from H.C/Supreme Court
- 4. O.A..... 438/2000Pg..... 1.....to..... 20.....
- 5. E.P/M.P.....Pg.....to.....
- 6. R.A/C.P.....Pg.....to.....
- 7. W.S.....Pg..... 1.....to..... 8.....
- 8. Rejoinder.....Pg.....to.....
- 9. Reply.....Pg.....to.....
- 10. Any other Papers.....Pg.....to.....
- 11. Memo of Appearance.....
- 12. Additional Affidavit.....
- 13. Written Arguments.....
- 14. Amendment Reply by Respondents.....
- 15. Amendment Reply filed by the Applicant.....
- 16. Counter Reply.....

SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH GUWAHATI.5

ORIGINAL APPLICATION NO. 43 of 2000

..... Karonimi Mahan Das..... Applicant.

Versus

Union of India & Ors Respondents.

For the Applicant(s) Mr. B. K. Sharma
Mr. S. Sarma, Mr. A. K. Sharma
Mr. U. K. Gopinami

For the Respondents. .. C. G. S. C.

NOTES OF THE REGISTRAR DATE ORDER

22.12.2000 Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman

Heard Mr. S. Sarma, learned counsel for the applicant and also Mr. B. S. Basumatary, learned Addl. C. G. S. C. for the respondents.

Application is admitted.

Call for the records. Issue usual notices.

List on 25.1.2001 for written statement and further orders.

Vice-Chairman

mk

25.1. M.S.B. Adjourned to 28.2.2001

28.2.2001 Four weeks time allowed to the respondents to file written statement. List it on 4.4.01 for orders.

Vice-Chairman

nkm

Tap in form but Petition M. P. B. for Rs. IPO/BD Dated.....

NDy. Registrar. 22/12/2000

Nat. Env. Cop mat filed.

2) Plea in case.

Notice prepared and sent to D/Sec for copies the respondent No. 1 to 3 by Regd AD vide D/No 74 to 76 dtd 8-1-2001

(1) Service report are still awaited.

(2) No written statement has been filed.

28.2.01

No. written statement has been filed.

By
3.4.01

4.4.2001 Four weeks time allowed to the respondents to file written statement. List for orders on 2.5.01.


Vice-Chairman

nkm

30.4.2001

w/s has been submitted by the respondents.

2.5 - Pass over to 11.5-2001.

By
A.K. 2.5

11.5 - There was a reference. List on 29/5/2001.

By
A.K. 11.5

By
23.5.01

Written statement has been filed. The applicant may file rejoinder if any with weeks from today.

List on 13.6.2001 for further orders.


Vice-Chairman

No. Rejoinder has been filed.

By
12.6.01

13.6.01

written statement has been filed. The applicant has yet to file rejoinder. Two weeks time is allowed for filing of rejoinder. List on 6.7.01 for hearing.


Member


No. rejoinder has been filed.

By
5.7.01

lm

6.7.2001

Heard Mr S. Sarmà, learned counsel for the applicant who has stated that this case is analogous to O.A.No.439/2000 and accordingly both cases should be heard on the same day. Mr S. Sarmà also submitted that O.A.439/2000 is already fixed for hearing on 27.7.01. Let this case be listed for hearing on 27.7.01 alongwith O.A.No.439/2000.


Vice-Chairman

No. Rejoinder has been filed.

By
26.7.01

nkm.

37

O.A. No. 438 of 2000.

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

① Wks has been filed,
 ② No. rejoinder has been filed.

[Signature]
 16.8.01

27.7.01

At the request of Mr. S. Sarma, learned counsel for the applicant the case is adjourned to 17.8.2001.

List on 17.8.2001 for hearing.

[Signature]

Member.

17.8.01

Mr. S. Sarma learned counsel for the applicant states that written statement has filed by the respondents which has been sent to the applicant. List on 27.8.01 for hearing.

[Signature]
 Member

lm

27.8.01

List again on 26/9/01 for hearing.

No. rejoinder has been filed.

[Signature]
 25.9.01

[Signature]
 Vice-Chairman

mb

26.9.2001

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is dismissed. No order as to costs.

[Signature]
 Vice-Chairman

nkm

22.10.2001

Copy of the judgment has been sent to the office for issuing the same to the applicant as well as to the Advt. CGSC. by the Regstr.

RS

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./XXX. NO. 438 of 2000

DATE OF DECISION 26.9.2001

Shri Kamini Mohan Das APPLICANT(S)

Mr B.K. Sharma, Mr S. Sarma, Mr D.K. Sharma
and Mr U.K. Goswami ADVOCATE FOR THE APPLICANT(S)

-- VERSUS --

The Union of India and others RESPONDENT(S)

Mr A. Deb Roy, Sr. C.G.S.C. and
Mr B.C. Pathak, Addl. C.G.S.C. ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

5.

Judgment delivered by Hon'ble Vice-Chairman



7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.438 of 2000

Date of decision: This the 26th day of September 2001

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

Shri Kamini Mohan Das,
Resident of Village- Jamtola, P.O.- Jamtola,
P.S.- Rangia, District- Kamrup,
Assam.

.....Applicant

By Advocates Mr B.K. Sharma, Mr S. Sarma,
Mr D.K. Sharma, Mr U.K. Goswami.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Communication, Department of Posts,
New Delhi.
2. The Chief Postmaster General,
Assam Circle, Guwahati.
3. The Superintendent of Post Offices,
Nalbari-Barpeta Division,
Nalbari.

.....Respondents

By Advocates Mr A. Deb Roy, Sr. C.G.S.C. and
Mr B.C. Pathak, Addl. C.G.S.C.

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

The only controversy raised in this application pertains to recording of the date of birth and the consequent superannuation.

2. The applicant was first engaged as a Extra Departmental Mail Carrier (EDMC for short) on 8.2.1960 (according to the Department the applicant was engaged on 8.2.1961 and not 8.2.1960). The applicant claimed that on the death of his parents, considering the sad ^{plight} ~~life~~ of the applicant and his poverty, at the instance of the local inhabitants, the respondents engaged the applicant as EDMC though at that time he was an underaged and only a school student. He was subsequently appointed to a Group 'D' post on the basis of his seniority and satisfactory service. The applicant stated that his actual date of birth was 31.3.1948, but the

Department wrongly recorded his date of birth as 31.12.1940. Discovering the erroneous recording of his date of birth, the applicant submitted a representation before the authority. The respondents did not respond to his representation, instead, the applicant was advised by communication dated 8.8.2000 to do the needful for arranging his pension papers. The applicant again submitted a representation on 7.9.2000 for correction of his date of birth. Subsequently also he filed representations before the authority. The authority by the impugned order dated 19.10.2000 declined to consider his representation and informed him that changing of date of birth could not be made since the request for such correction did not come within five years of his entry into Government service and the applicant also did not fulfil the conditions as per rule. Hence this application assailing the legitimacy of the impugned order dated 19.10.2000.


3. The respondents submitted their written statement. In the written statement the respondents stated that the date of birth of the applicant was recorded in the first page of his Service Book on the basis of proof of age as per the school certificate submitted by him at the time of initial appointment as Group 'D' employee with effect from 6.3.1992. The entries made in the first page of the Service Book containing, inter alii, the date of birth was duly attested by the appointing authority and signed by the applicant in token of having seen it and admitted. The respondents also stated that the duplicate certificate produced by the applicant later was not the original one which was initially submitted by him at the time of his appointment as Group 'D' on seniority basis from EDMC. The date of birth of the applicant was recorded as 31.12.1940 in the first page of his Service Book on the basis of the school certificate which was submitted by the applicant at the time of appointment as Group 'D' with effect from 6.3.1992. Denying the contention of the applicant that he was appointed underaged, the respondents stated that his appointment was made as per recruitment rules and not on consideration of the condition of his family as contended by the applicant. Under

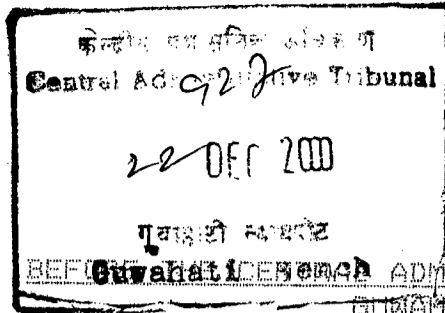
the.....

the Recruitment Rules the age of the applicant could not have been less than eighteen years on the date of selection and appointment as EDMC from 8.2.1961.

4. I have heard Mr S. Sarma, learned counsel for the applicant as well as Mr B.C. Pathak, learned Addl. C.G.S.C. On consideration of the materials on record it does not appear that any injustice has been caused to the applicant by the impugned order dated 19.10.2000. Admittedly, the applicant submitted his representation for correction of his date of birth in 1994, i.e. beyond the period prescribed in Note 6 of F.R. 56. Even the materials on record did not indicate that the age of the applicant was wrongly recorded.

5. In the circumstances the application is dismissed. There shall, however, be no order as to costs.


(D. N. CHOWDHURY)
VICE-CHAIRMAN



Title of the case :

DA No. 438/2000

BETWEEN

Shri Kamini Mohan Das.

... Applicants

- versus -

Union of India & Ors.

... Respondents

I N D E X

SL. No.	Particulars of the documents	Page No.
1.	Application ...	1 to 9
2.	Verification ...	10
3.	Annexure-1 ...	11
4.	Annexure-2 A & B ...	12 & 13
5.	Annexure-3 ...	14
6.	Annexure-4 ...	15
7.	Annexure-5, SA, SB ...	16, - 19
8.	Annexure-6 ...	20

Filed by :

Shekhar

Advocate

THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
GUWAHATI

O.A. No. 438 of 2000

Filed by:

The Applicant, through
Dharmendra Kr. Sarma, Advocate

BETWEEN

Shri Kamini Mohan Das,
son of Late Dandi Ram Das, resident
of Village - Jamtola, P.O.-Jamtola,
P.S. Rangia, Dist.-Kamrup, Assam.

... Applicant

AND

1. The Union of India, represented
by the Secretary to the Government
of India, Ministry of
Communication, Deptt. of Posts, Dak
Bhawan, New Delhi.

2. The Chief Postmaster General,
Assam Circle, Guwahati-781001.

3. The Superintendent of Post
Offices, Nalbari-Barpeta Division,
Nalbari-781335.

... Respondents

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE
APPLICATION IS MADE :

This present application is directed against the
impugned office order No. C2-04/SP/2000 dated
19.10.2000 by which the Applicant was illegally forced
to retire with effect from 31.12.2000 on the basis of
wrong recording of date of birth of the Applicant and
also with the prayer to allow the Applicant to continue
in the Group D post at the Goreswar Sub-Post Office
under Rangia Sub-Division till the actual date of
superannuation i.e. 31.12.2009.

K. B. Das

2. JURISDICTION OF THE TRIBUNAL :

That the Applicant further declares that the subject matter of the case is within the jurisdiction of this Hon'ble Administrative Tribunal.

3. LIMITATION :

That the Applicant declares that the application has been filed within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 That the Applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges, as guaranteed under the Constitution of India.

4.2 That the Applicant was initially engaged as a Extra Departmental Mail Carrier when the Jamtola Extra Departmental Branch post Office was established on public demand, on 8.2.1968. At that time the Applicant was a student of class V (old) reading in the M.P. Jamtola M.E. School.

A copy of the school leaving certificate is annexed herewith and marked as Annexure-1.

4.3 That the Applicant begs to state that his parents had died when he was a minor but considering his helplessness condition as well as poor financial condition, the Respondents on request of the Local

KM Dey

people engaged him as a Extra Departmental Mail Carrier at Jantola Extra Departmental Branch Post Office in the year 1968 though he has was a school student.

4.4 That the Applicant begs to state that when he was serving as Extra Departmental Mail Carrier and as Extra Departmental Mail carrier upto 5.3.92 he was selected on the basis of seniority and satisfactory service as a Extra Departmental Delivery Agent cum Mail Carrier on 6.3.92 he was appointed to the post of Group-D. be it mention here that no formal appointment letter as issued to him.

4.5 That the Applicant begs to state that the Respondents have wrongly inserted the date of birth as 31.12.1948 instead of his actual date of birth 31.3.1948 as per his school leaving certificate which he came to know lately. After knowing the fact that the Respondents wrongly inserted his date of birth and maintaining the same he immediately make a representation to the Sub-divisional Inspector of Post Offices, Rangia Sub-division through the Sub-Post master, Kumarikata Sub-Post Office, who was duly forwarded his representation for correction of date of birth.

A copy of the representation dated 16.7.94 along with the forwarding letter are annexed herewith and marked as Annexure- 2A and 2B respectively.

4.6 That ,the Applicant begs to state that after submission of the aforesaid representation he had

KMD

approached several time to the Respondents for correction of his date of birth, but the Respondents has not responded and nothing has been done towards his representations.

4.7 That the Applicant begs to state that while the Respondents has not done anything towards his representations for correction of his date of birth and the same is maintaining wrongly the Applicant received a letter vide Memo No. 04/SP/2000 dated 8.8.2000 by which the Respondent No. 3 i.e. the Superintendent of Post Offices, Nalbari by which he was directed to collect the pension papers.

A copy of the letter dated 8.8.2000 is annexed herewith and marked as Annexure-3.

4.8 That the Applicant begs to state that after receiving the letter dated 8.8.2000, he has surprised and immediately on 7.9.2000 make a representation for review the superannuation date stating that his actual date of birth is 31.12.1949 as such his date of superannuation should be 31.12.2009. A photo copy of the schools leaving certificate is also enclosed with the representation.

A copy of the representation 7.9.2000 is annexed herewith and marked as Annexure-4.

4.9 That the Applicant begs to state that on 12.9.2000, he made another representation in this regard alongwith a affidavit swearing before the Judicial Magistrate,

K.M. Das

Kamrup, Guwahati declaring that his date of birth is 31.12.1949 and as such his date of superannuation will be on 31.12.2009.

A copy of the representation dated 12.9.2000 and a copy of the affidavit are annexed herewith and marked as Annexure-5A and 5B respectively.

4.10 That the Applicant begs to state that after the said position, and after receiving his representation he came to know that the Superintendent of Post, Nalbari-Barpeta Division had submitted a favourable note to the Chief Post Master General, Guwahati, after verification and perusal of records of the Applicant but most surprisingly the Chief Post Master General, Guwahati did not agree with the proposal suggestions of the superintendent, and most arbitrarily without verifying the records of the Applicant, decided to retire the Applicant on 31.12.2000 assuming the date of birth as 31.12.40 which was wrongly inserted by the Respondents at the time of appointment on their own motion, baselessly.

4.11 That the Applicant begs to state that the arbitrary decision issued vide impugned office order No. C2-04/SP/2000 dated 19.10.2000 wherein it is stated that the Applicant did not make request in this regard within 5 years of his entry into the service and also did not fulfill the conditions as per rules. This impugned order is issued arbitrarily in total violation of existing relevant rules and the decision of

GM Deen

retirement with effect from 31.12.2000 is contrary to the correct date of birth.

4.12 That the Applicant begs to state that he had made a representation dated 16.7.94 for correction of his date of birth which is within the period of 5 years of his entry into the service as he was appointment in Group-D post on 6.3.1992, therefore the plea taken by the Respondents is baseless, and the Applicant can not be made to suffer if there is any wrong recording of date of birth on the part of the Respondents. hence the impugned order No. C-2-04/SP/2000 dated 19.10.2000 is liable to be set aside and quashed.

A copy of the order dated 19.10.2000 is annexed herewith and marked as Annexure-6.

4.13 That the Applicant begs to state that even after the aforesaid representation dated 16.7.94 which he made within the period of 5 years of his entry into the service, the impugned order dated 19.10.2000 issued by the Respondents without application of mind and without verification of the service records of the Applicant is most arbitrary, illegal and unfair to retire him with effect from 31.12.2000. Therefore the same is liable to be set aside and quashed and the Respondents be directed to allow the Applicant to continue till 31.12.2009 as per his actual date of birth.

4.14 That the Hon'ble Tribunal be pleased to call for records of the Applicant from proper adjudication of

AMM

the question involved in the instant application and also for the protection of the rights and interests of the present Applicant.

4.15 That it is a fit case where the Hon'ble Tribunal be pleased to interfere to protect the right and interests of the Applicant and this application is made for ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the action of the respondents in not consideration of representation of the Applicant for correction of date of birth as per rules has given rise to miscarriage of justice.

5.2 For that the plea taken by the Respondents that no request had been made within 5 years of entry into the service is vague and baseless as because, the Applicant had made his first representation on 16.7.94 which is within the period of five years from the date of his appointment i.e from the date of 6.3.1992.

5.3 For that the date of birth of the Applicant as per school leaving certificate is 31.12.1949 which is the only authenticated documents regarding my age.

5.4 For that the Applicant cannot be made to suffer due to wrong recording of date of birth committed by the Respondents.

5.5 For that no opportunity as principle of natural justice was follows while arbitrary decision was taken

KMDal

without application of mind and without verification of service records of the Applicant.

5.6 For that the decision taken by the Respondents is bad in law.

6. DETAILS OF REMEDIES EXHAUSTED :

That the Applicant declare that he has exhausted all the remedies available to him and there is no alternatives remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The Applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made, before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pendency before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the Applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the Applicant :-

8.1 To direct the Respondents to correct/change the date of birth of the Applicant as 31.12.49 and allowed to continue him in his service and the order Memo No.

K.M. Das

Fl

- 9 -

C-2-04/SP/2000 dated 19.10.2000 (Annexure-6) be set aside and quashed.

8.2 To direct the Respondents to extend the all service benefits till 31.12.2009 as per correct date of birth of 31.12.1949.

8.3 Cost of the application.

8.4 Any other relief/reliefs to which the Applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR :

During the pendency of this application the Applicant prays for the following interim relief :

9.1 To direct the Respondents to be allow the Applicant to continue to work in the post of Group-D at Goreswar Sub-post Office till final disposal of the O.A. or to actual date of superannuation on 31.12.1949.

10.

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

- i) I.P.O. No. : 2 G 503940
- ii) Date : 20-11-2008
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification...

Handwritten signature

VERIFICATION

I, Shri Kamini Mohan Das, son of Late Dandi Ram Das, aged about 51 years, resident of Vill-Jamtola, P.O.-Jamtola, P.S. Rangia, Dist-Kamrup, Assam, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4'1, 4'3, 4'4, 4'6, 4'10 and 4'11 are true to my knowledge ; those made in paragraphs 4'2, 4'5, 4'7, 4'8, 4'9 and 4'12 are true to my information derived from records and the rests are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the 20 th day of December 2008.

Kamini Mohan Das

DUPLICATE

ANNEXURE-

1

2

M. B. Binding Works, N. T. Road, Rangia

M.P. Jamulola M.E.

SCHOOL.

Transfer/Leaving Certificate

Serial No. —

Date 30.8.2000 19 :

CERTIFIED that Sri/Srimati Ramini Mohan Das

Son/Daughter of Lata Dandi Ram Das an inhabitant of

Village/Town Jamulola P.O. Jamulola

P.S. Rangia in the District of Kaushal (Bihar) left the
M.P. Jamulola M.E. School on 31-12-1961.

His/Her age/date-of-birth as per School Admission Register is 12 (Two) years x month x days on 31-12-61. He/She was reading in class VI (OXD) and had/had-not passed the Examination for promotion to class VII (OXD). All sums due by him/her have been paid viz. fees up to 31-12-61 date.

Fines — Nil

Character — Good

Reasons for leaving — i) Unavoidable change of Residence.

ii) Ill health.

iii) Completion of School course.

iv) ~~Minor reasons.~~

Attested.

[Signature]
Attested.

[Signature]
30/8/2000

M. B. Jamulola Provincial
Headmaster/Principal

Annexure-2A

DEPARTMENT OF POSTS, INDIA

To
The SDI(P)
Rangia

No.A-1/Misc/92-93 dated at Kumarikata the 16.7.94

One application dated 16.7.94 received from Sri Kamini Mohan Das, Runner, Kumarikata and forwarded him for favour of your kind plea.

Enclo : As above.

Sd/-
Sub Postmaster
Kumarikata-781360

Copy to :

Sri K. M. Das, Runner, Kumarikata for information

*Attested
Ukhan
Advocate*

Annexure-2B

To
The sub-divisional Inspector of Post-offices
Rangia Sub-Division, P.O.-Rangia

Through the Sub-post Master,

Kumarikata Sub-Post-Office, Kumarikata, dated 16.7.94

Sub : Submission of age certificate for correction of
date of birth.

Ref : Superintendent of Post Offices, Nalbari letter
No. A/C 15/Ch.11 dated - 13.2.92

Sir,
With reference to the above, I have the honour
today before you the following lines for your kind
consideration and perusal.

That sir, off late, it is came to my knowledge
when I minutely see the letter under reference, my
date of birth is entered as 31.12.48

In this connection, I would like to state that my
date of birth is 31.3.48 according to my school
certificate.

So, I request you kindly to make necessary correct
entry (i.e. date of birth as 31.3.48 instead of
31.12.49. This is for your kind information and
necessary action.

With regards.

Enclo :
Photocopy of School certificate.

Yours faithfully

Sri Kamini Mohan Das
Group-D

Copy :

1. The Supdt. of Posts, Nalbari Barpeta Div. Nalbari.

Attended
by Udayan
Advocate

DEPARTMENT OF POSTS : INDIA

OFFICE OF THE SUPERINTENDENT OF POST OFFICES
NALBARI-BARPETA DIVISION : NALBARI-781335

To

Shri/Smti. K. Barman
(S.D.O.)
Nalbari (W)

No. C2- 04/SP / 2000 Dated at Nalbari the 8-8-2000

Sub.: - Superannuation Pension case of Shri/Smti. Kamrunnabha Barman Smt. Goreswar

Please obtain the ~~REQUIRE~~ pension papers in the enclosed forms from the aforesaid officials and forward the same duly attested by you to this office early to enable this office to prepare pension papers for submission to the D.A.(P)/Calcutta in due time. The pass post size joint photographs may please be collected and sent to this office after due verification and attestation.

The receipt of this letter with enclosures may please be acknowledged.

Encls.: - One set of forms.

Self
Superintendent of Post Offices
Nalbari-Barpeta Division
Nalbari-781335

Copy to:-

Shri/Smti. Kamrunnabha Barman Smt. Goreswar
(S.D.O.)

Please contact the SDR(P) / Nalbari (W) and get the forms filled up for early submission.

Self
Superintendent of Post Offices
Nalbari-Barpeta Division
Nalbari-781335

Attended.
W. K. Barman
Advocate

ANNEXURE- 4

To

The Superintendent of Post Offices,
Malbari-Barpeta Division, Malbari,
PIN - 781335.

13 SEP 2000
Office of the Superd of
Post Offices
Malbari Barpeta Division
MALBARI - 781 335

Dated: -Goreswar, the 7th Sept/2000.

Sub :- Application for review of superannuation date
Ref :- Your office letter No. C2-04/SP/2000 dt. 08-08-2000.

Sir,

With due respect, I have the honour to lay before you the following few lines for your kind consideration and perusal.

That Sir, I Sri Kamini Mohan Das has been working as Group-D in Goreswar Sub-Post Office. During my service period, I was against ED posts upto 05-03-92 at Jamtola M.D.O. under Rangia Sub Post Office.

That Sir, after getting the letter under reference I come to know that, my date of superannuation has been fixed as 31-12-2000.

In this regard, I would like to inform you that, my actual date of birth is 31-12-1949. As such my date of superannuation should be 31-12-2009.

The age certificate/school certificate is also enclosed herewith

Therefore, I fervently request you kindly to review the superannuation date and for this act of your kindness, I shall remain ever grateful to you.

With regards.

Enclo. :- 1) Photo copy of school certificate.

Yours faithfully,

Sri Kamini Mohan Das

(SRI KAMINI MOHAN DAS)

Copy to :-

Group - D.
Goreswar Sup Post Office
Goreswar.

1) The S.D.I (P), Post Malbari Divn.,
Malbari for kind information and
necessary action.

Attested.
W. G. ...
Attested.

To

The Superintendent of Post Offices,
Nalbari-Barpeta Division, Nalbari
PIN - 781335.

Dated:-the 12th September'2000.

Sub:- Application for review of superannuation date.
Ref:- Your Office Letter No.C2-04/SP/2000 dt.8/8/2000.

Sir,

With due respect, I have the honour to lay before you the following few lines for your kind consideration and perusal.

That Sir, with reference to your letter No.C2-04/SP/2000 dated 08-08-2000, I already submitted a review application dated 7-9-2000 in respect of the matter of my superannuation from service.

That, in support of my contention made in para no.3 of my review application, I do herewith annex a true copy of my affidavit dated 12-9-2000 duly attested for your kind perusal and due consideration.

I also annex herewith a typed copy of my aforesaid review application.

Therefore, I fervently request you kindly to review the superannuation date and for this act of your kindness, I shall remain ever grateful to you.

With regards,

Yours faithfully,

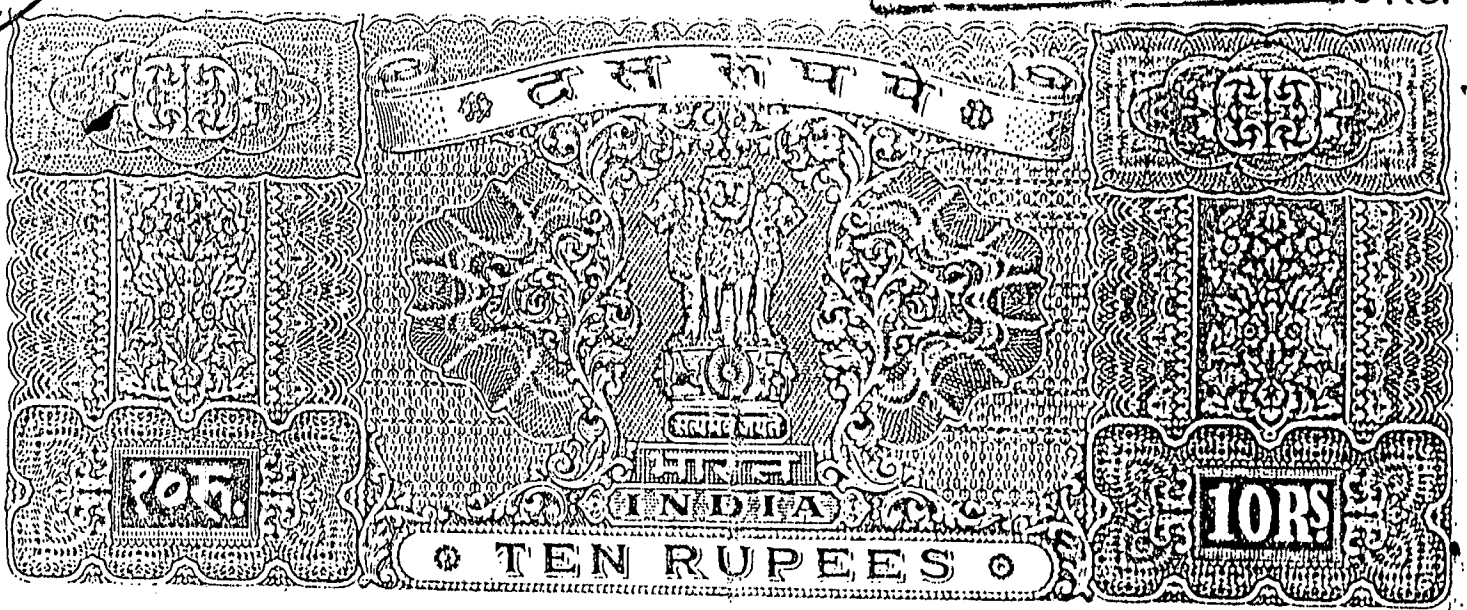
Sri Kamini Mohan Das

Encl:As stated above.

(SRI KAMINI MOHAN DAS.)
Group - D,
Goreswar Sub Post Office,
Goreswar.

Copy to :-

The S.D.I.(P), East Nalbari
Divn., Nalbari for kind in-
formation & necessary action.



IN THE COURT OF THE MAGISTRATE : KAMRUP AT GUWAHATI.

A F F I D A V I T

I, Sri Kamini Mohan Das, son of Late Dandi Ram Das, aged about 51 (fifty one) years, by religion Hindu, by occupation Central Govt. Service, permanent resident of Village & Post Office Jamtola, Mauza Panduri under Rangia Sub-Division in the district of Kamrup(Assam), presently residing at Village No.1 Goreswar, Mauza Betna, P.S. Goreswar in the district of Kamrup, Assam, do hereby solemnly affirm and declare as follows :-

Sri Kamini Mohan Das

1. That, presently I am serving as Group-D in Goreswar Sub-Post Office.
2. That on 08-02-1960, on Public Demand and Pressure, the Jamtola Extra Departmental Branch Post Office under Rangia Sub-Post Office was established and on the said day, one Sri Ugra Kanta Sarmah (since dead) who was serving as the Head Master of Madhya Panduri Jamtola M.E. School was engaged as Extra Departmental Agent/Extra Departmental Branch Post Master and I was engaged as Extra Departmental Mail Carrier though I was then a school student reading in Class V(Old) in the M.P. Jamtola M.E. School.

contd... 2

Attested
Ugrakanta
 Magistrate

3. That I served as Extra Departmental Mail Carrier since 8-2-1960 for about 5(five) years, and then as Extra Departmental Delivery Agent-cum-Extra Departmental Mail Carrier upto 5-3-1992 and on 6-3-1992 I was appointed and joined as Group D in the Kumarikata Sub Post Office and in the month of December, 1998 I was transferred to Goreswar Sub Post Office and I joined as such in the Goreswar Sub Post Office in the month of January, 1999 continuing in the said service at Goreswar Sub Post Office till this day.

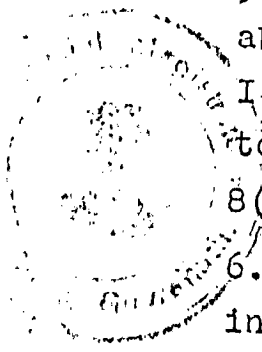
4. That my parents died when I was a minor and my engagement as Extra Departmental Mail Carrier at Jamtola Extra Departmental Branch Post Office was made by the then authority concern considering my helpless condition as well as poor financial condition though I was then a school student.

5. That presently I have no such elder relations to say about my age. But according to my school leaving certificate, I was 12(twelve) years old on 31-12-1961 and accordingly today, the 12th September, 2000 I am aged 50(fifty) years 8(eight) months 11(eleven) days.

6. That this affidavit shall be used as a piece of evidence in support of the fact of my service and of my age in connection of my service.

contd... 3

B. K. Kombari - Mohan Das



7. That all the statements made above in this affidavit are true to the best of my knowledge and belief and I sign this affidavit on this the 12th day of September, 2000 at Guwahati.

St. Kamenu Mohan Singh

DEPONENT

Identified by me.

Pranati Talukdar
12-9-2000

Advocate.

Solemnly affirmed and declared before me by the deponent who is identified by Ms Pranati Talukdar, Advocate on this 12th day of September, 2000 at Guwahati.

12/9/2000

MAGISTRATE; GUWAHATI

DEPARTMENT OF POSTS, INDIA
Office of the Superintendent of Post Offices
Nalbari Barpeta Division
Nalbari-781335

To
Radi
Sri Kamini Mohan Das,
Gr-D, Goreswar SO

No. C2-04/SP/2000

Date :: 19-10-2000

Sub: Alteration of date of birth and superannuation retirement.

Your request for changing the date of birth has not been recommended by the Chief PMG, Assam Circle, Guwahati as you did not make request in this regard within 5 years of your entry into the Govt. service and also did not fulfil the conditions as per rule.

56
Noted to do

This is for favour of your information.

Now, you are asked to get the pension papers filled up. For the purpose, you are asked to contact the SDI(P) Nalbari (E) sub Dn. to whom a set of pension papers was already sent.

[Signature]
Supdt. of Post Offices
Nalbari Barpeta Division
Nalbari-781335

Copy to:
The SDI(P) Nalbari(E) sub Dn. for information. He is requested to get the pension papers in respect of the above official, completed immediately and arrange to submit the same to this office within a week. This is most urgent.

Attested.
[Signature]
Attorney.

sd/-
Supdt. of Post Offices
Nalbari Barpeta Division
Nalbari-781335

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
30 APR 2001
गुवाहाटी न्यायपीठ
Guwahati Bench

31
Reg by
27/4/01
Dr. C. G. S. C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI

O.A. NO. 438 OF 2000

Shri Kamini Mohan Das

- Vs -

Union of India & Others.

- And -

In the matter of :

Written Statement submitted by
the Respondents

The respondents beg to submit the written
statement as follows :

1. That with regard to para 1, the respondents beg to state that the applicant attained superannuation age i.e. 60 years as per service records on 31.12.2000 and as such he was permitted to retire on 31.12.2000 as per rules and condition of service. The date of birth of the applicant was recorded in the first page of his service book on the basis of the age proof school certificate submitted at the time of initial appointment as Group D employee w.e.f. 6.3.1992. The entries made in the first page of the service book containing inter-alia, the date of birth was duly attested by the appointing authority and signed by the applicant in token of having seen it and admitted. As such the contention of the applicant that the applicant was forced to retire illegally on the basis of wrongly recorded date of birth is not true and maintainable.

The prayer of the applicant for allowing him to continue in service till 31.12.2000 was rejected as the request is unjustified and not admissible as per existing rules.

Copy of the 1st Page of service book of ~~Shri Kamini~~ Shri Kamini Mohan Das is annexed as Annexure -1.

2. That with regard to paras 2, 3, and 4.1, the respondents beg to offer no comments.
3. That with regard to para 4.2, the respondents beg to state that the applicant worked as Extra Departmental Mail Carrier (in short 'EDMC') of Jantola ED Branch Post Office since the date of opening of the said office on 8.2.1961 as per record but not from 8.2.1960 as claimed by him. Further, the respondents beg to state that the duplicate certificate produced by the applicant very recently is not the original one which was initially submitted by him at the time of appointment as Group-D (departmental) on seniority basis from Extra-Departmental status. The date of birth of the applicant was recorded in the first page of his service book as 31.12.1940 on the basis of the school certificate which was submitted by the applicant at the time of appointment as Group - D with effect from 6.3.1992.
4. That with regard to para 4.3, the respondents beg to state that the appointment of the applicant earlier as Extra Departmental Mail Carrier of Jantola EDBO was done as per recruitment rules but not on consideration of condition of his family as contended by the applicant. Moreover, the age of the applicant could not be less than 18 years on the date

of selection and appointment as EDMC from 8.2.1961. Had the applicant been a school student of M.E. School in the year 1961 as claimed, he would have been barred from appointment in the post being his age below 18 years (minimum age prescribed by the Govt. for recruitment) at that time . As such, the statement of the applicant made in the para is misleading and untrue.

5. That with regard to para 4.4, the respondents beg to state that the applicant was selected for appointment as Group- D on the basis of seniority in Extra Departmental cadre vide approved list issued under Memo No. A/C-15/Ch-II dated 13.2.92 and he was allotted to the unit of the Sub Divisional Inspector (Postal) Rangia for posting etc. The applicant on having appointed in the cadre posted as Mail Runner, Kumarikata Sub Post Office and later as Group-D at Goreswar Sub Post office.

6. That with regard to para 4.5, the respondents beg to state that the date of birth of Govt. servant is in practice noted in the 1st page of the relative service book on the strength of the age proof certificate i.e. school certificate produced by such Govt. servant at the time of initial appointment. Such entries in the 1st page of service books are to be authenticated by the official concerned under signature which is attested by the controlling/appointing authorities concerned. In the instant case the applicant authenticated the entries containing inter-alia the date of birth in the 1st page of his service book (Annexure-I) by putting his signature in the relevant space which was duly attested by his controlling authority. The respondents further beg to state that the age proof school certificate which was

produced at the time of initial appointment and on the strength of which the date of birth was recorded in the 1st page of his service book is reported to have not been traced out in his personal file. As such the contention of the applicant that his date of birth was wrongly inserted in service records as 31.12.1940 is not based on truth. As regards the representation dated 16.7.94 of the applicant regarding request for change of date of birth, the respondents beg to submit that no such representation appears to have been received by the Sub-Divisional Inspector, Rangia Sub Division or by this Respondent no.3, nor the applicant pursued the case with the appropriate authorities in this regard till the time of obtaining his pension papers in August/2000. As such, the contentions of the applicant in this para are after thought with malafide intention to derive undue gain and hence liable to be rejected.

7. That with regard to para 4.6, the respondents beg to submit the comments what have already made against the foregoing paragraph 4.5.

8. That with regard to para 4.7, the respondents beg to state that the respondents deny receipt of representation dated 16.7.94 from the applicant for correction of his date of birth. Since the applicant was due to superannuate on 31.12.2000 as per service record, a notice was issued by the respondent no.3 on 8.8.2000 for obtaining his pension papers for processing in time as per rule.

9. That with regard to para 4.8, the respondents ~~beg~~ admit the receipt of the representation dated 7.9.2000 from the applicant and the same was disposed of on 19.10.2000 after due consideration.
10. That with regard to para 4.9, the respondents beg to state that the date of birth once recorded in the service book on the basis of birth once recorded in the service book on the basis of the age proof school certificate produced by the applicant is not alterable if request for such alteration is not made within 5 years from the date of entry in the service vide Note-6 of FR-56. Therefore the representations of the applicant made on 7.9.2000 and 12.9.2000 for alteration in date of birth were considered to be time barred and hence rejected.
- Copy of Note-6 below FR-56 is annexed hereto and marked as Annexure - 2.
11. That with regard to para 4.10, the respondents beg to state that the representation of the applicant forwarded by Respondent No.3 was considered by terms of Annexure-2 mentioned in the foregoing paragraph.
12. That with regard to para 4.11, the respondents beg to state that the applicant challenging legality of existing rules in the matter of his personal interest is bad in eye of law and deserves outright rejection. It is also submitted that the order dated 19.10.2000 by the respondent no.3 was rightly issued after careful consideration of the representation of the applicant as per rules and orders of the Govt. of India as mentioned in the foregoing paragraph 4.9.

13. That with regard to para 4.12, the respondents beg to state that as submitted in the foregoing paragraph 4.7 no representation dated 16.7.94 was received at all by the respondents and hence consideration of the matter cited in that representation does not arise. The applicant's representations dated 7.9.2000 and 12.9.2000 were received by the respondents and these were disposed of after due consideration rejecting his request for alteration in his date of birth recorded in service book being time barred one as per rules.

14. That with regard to para 4.13, the respondents beg to re-iterate the comments what have already been submitted in the foregoing paragraphs 4.7 and 4.12 . As such, there is no merit in the case and liable to be rejected.

15. That with regard to para 4.14, the respondents beg to state that the relevant records available connected with the case will be produced as and when asked for by the Hon'ble Tribunal.

16. That with regard to para 4.15, the respondents beg to state that the application for alteration in date of birth is time barred by rules. Hence deserves no merit for consideration.

17. That with regard to ~~paragraph~~ para 5.1 to 5.5, the respondents beg to state that the request of the applicant for alteration in his date of birth recorded in the service book is barred by the provisions in Note-6 of FR-56 (Annexure-2). Further, it is submitted that the applicant was knowing his date of birth recorded in the service book much earlier the date of his representation on 7.9.2000 and 12.9.2000 as he

himself signed the first page of his service book on 16.11.96 in token of having seen and admitted the entries reflecting his date of birth as 31.12.1940. As such, the grounds for relief stated in these paragraphs are not based on reality and liable to be rejected.

18. That with regard to para 6 and 7, the respondents beg to offer no comments. K

19. That with regard to para 8.1 to 9.4, the respondents beg to state that the relief sought for by the applicant has got no merit as discussed in the foregoing paragraphs and deserves no consideration being barred under provisions of Note-6 below FR-56 (Annexure-2) and hence liable to be rejected. Further, the respondents beg to point out with reference to the statement of the applicant that he entered in the department as EDMC, Jamtola BO on 8.2.1960 (actual 8.2.1961), if the date of birth as claimed by the applicant on the basis of the duplicate school certificate submitted subsequently on 7.9.2000 is taken into consideration he had have entered in the service as EDMC Jamtola BO at his age of 10 years 1 month 5 days only which is absurd and impossible as per recruitment rules. Secondly, his claim as to submission of a representation dated 16.7.94 for correction of his date of birth recorded in his service book on 16.11.96 only is also absurd. As such, it is submitted that the statements of the applicant are travesty of truth and misleading and hence liable to be dismissed.

20. That with regard to para 9, the respondents beg to state that the applicant was allowed to retire on 31.12.2000 on attaining of his age of superannuation as per

30

-8-

his service ~~book~~ records and condition/rules of services. The application has no merit as discussed in the foregoing paragraphs and hence the Hon'ble Tribunal may dismiss the same.

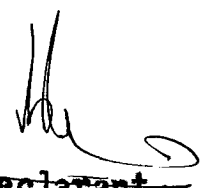
21. That with regard to para 10 to 12, the respondents beg to offer no comments.

V E R I F I C A T I O N

I, Shri *Niranjana Das*,

being authorised do hereby verify and declare that the statements made in this written statement are true to my knowledge, information and believe and I have not suppressed any material fact.

And I sign this verification on this 27th day of April, 2001.


Declarant.
Superintendent of Post Offices,
Nalbari, Birpeta Division
Nalbari-781235