

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 195/2002

R.A/C.P No.

E.P/M.A No. 157/02

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SECTION OFFICER (Judl.)

FORM No. 4
(SEE RULE 42)

GENERAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 195/2002

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicants. K. C. Das

-Vs-

Respondant(s) H. O. I. Joms

Advocate for the Applicant(s) M. Chanda, G. N. Chakrabarti
17-DNH

Advocate for the Respondant(s) cafe

Notes of the Registry

Date

Order of the Tribunal

21.6.02

Issue notice of motion. Returnable by 3 weeks.

List on 15.7.02 for Admission.

Member

lm

15.7.2002

Heard Mr. M. Chanda, learned couns for the applicant and also MR. A. Deb R. learned Sr. C.G.S.C. for the responder.

Though opportunity granted the pondents did not file any written statement. On the other hand Mr. A. Deb R. C.G.S.C. sought for time to file w statement.

Upon hearing the learned couns the parties, the case is admitted call for the records. List the case 23.8.2002

1-7-2002

Notice prepared and sent to D. Section for issuing of the same to the respondent through Regd. post with A.D. vide D.No-1881 to 1884 Dtd-2.7.02.

2

O.A.No.195/2002

15.7.2002 Heard Mr.M.Chanda, learned counsel for the applicant and also Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents.

Though opportunity granted the respondents did not file any written statement. On the other hand, Mr.A.Deb Roy, Sr.C.G.S.C. sought for time to file written statement.

Upon hearing the learned counsel for the parties, the case is admitted, and call for the records. List the case on 23.8.2002 for orders. In the meantime the respondents may file written statement, if any.

No. written statement has been filed

22.8.02

Vice-Chairman

bb

23.8.2002 Written statement has been filed. The case is ready now for hearing and accordingly the same is listed for hearing on 27.9.2002. The applicant may file rejoinder, if any.

26.8.02

W/S submitted by the Respondents.

Member

bb

27.9.02 Written statement has been filed. Case is ready for hearing. List for hearing on 8.11.01 for hearing. In the meantime the applicant may file rejoinder if any within two weeks. kirk mx

Member

30.9.02

Rejoinder submitted by the Applicant in reply to W/S.

8/11 The case is adjourned to 12/11/2002

Signature

MLO
AB
8/11

13.12.2002 Part heard. Put up again on 3.1.2003 for further hearing.


Vice-Chairman

nk

2.1.2003 Due to vacation, the case is adjourned to 24.1.2003

3

3

Date of the Registry	Date	Order of the Tribunal
<p><u>12.3.03</u></p> <p>Copy of the Judgment has been sent to the office for supply of same to the applicant as well as to the S.C. & J.C. for the same.</p>	<p>24.1.2003</p> <p>nkm</p>	<p>Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is allowed. No order as to costs.</p> <p></p> <p>Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

6

O.A. / ~~XX~~ No. 195 . . . of 2002

DATE OF DECISION 24.1.2003

Shri Kshitish Chandra Das
..... APPLICANT(S).

Mr M. Chanda, Mr G.N. Chakraborty
and Mr H. Dutta
..... ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

The Union of India and others
..... RESPONDENT(S).

Mr A. Deb Roy, Sr. C.G.S.C.
..... ADVOCATE FOR THE
RESPONDENT(S).

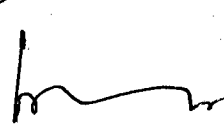
THE HON'BLE MR JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN

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 ?

Yes

Judgment delivered by Ho'ble Vice-Chairman.



A

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.195 of 2002

Date of decision: This the 24th day of January 2003

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

Shri Kshitish Chandra Das
Working as Sub Postmaster,
Sub Post Office, Lanka,
District- Nagaon.

.....Applicant

By Advocates Mr M. Chanda, Mr G.N. Chakraborty
and Mr H. Dutta.

- 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,
North East Postal Circle,
Meghdoot Bhawan, Guwahati.

3. The Postmaster General,
Dibrugarh Division,
Dibrugarh, Assam.

4. The Superintendent of Post Office,
Nagaon Division,
Nagaon, Assam.

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

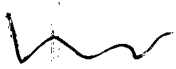
.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

In this application under Section 19 of the
Administrative Tribunals Act, 1985 the applicant has
prayed for the following reliefs:

That the respondents be directed to record the
correct date of birth i.e. 1.2.1944 in place of
1.2.1943 in the Service Book of the applicant.



That the respondents be directed to treat the date of birth of the applicant as 1.2.1944 in his Service Record for the purpose of retirement on superannuation and for all other purposes.

That the respondents be directed to allow the applicant to continue in service upto 31.1.2004 treating the date of birth as 1.2.1944.

2. Facts - The applicant was appointed as Postal Assistant and he joined the service on 25.5.1967. The applicant passed the Higher Secondary School Leaving Certification (HSSLC for short) Examination in the year 1964 from Nagaon Higher Secondary School, Nagaon under the Board of Higher Secondary Examination, Assam. The Higher Secondary School Leaving Certificate in original, which was produced before us was dated 6.6.1964. As per the Higher Secondary School Leaving Certificate 1964 the applicant was aged 20 years 1 month 1 day on the First day of March 1964. The date of birth of the applicant as per the Higher Secondary School Leaving Certificate was 1.2.1944. In the Service Record, however, against Column No.6 the date of birth of the applicant was entered as 1.2.1943. The applicant signed the Service Book on 30.11.1968. Subsequently, the applicant submitted representation before the Superintendent of Post Offices for correction of the date of birth from 1943 to 1944 as per the Higher Secondary Certificate. The applicant made the representation on 22.12.2001. The Superintendent of Post Offices- respondent No.4, rejected his representation and thereafter the applicant submitted a representation before the Post Master General which remained unattended. Hence this application assailing the action of the respondents.

3. The Superintendent of Post Offices, while refusing to correct the date of birth of the applicant, observed that the applicant, as per the instructions, ought to have raised the objection while signing the first page of the Service Book within five years of his entry into Government service. The claim of the applicant was rejected on the ground of delay.

4. The respondents in the written statement also pleaded that the first page of the Service Book was duly authenticated by the applicant on 30.11.1968 and therefore, he ought to have asked for remedial measures within the time specified. The gradation list of the officials were circulated, wherein the age of the applicant was also shown. Since the applicant did not make any appropriate remedial exercise, question of correction of his date of birth at the fag end of his career did not arise.

5. I have heard Mr M. Chanda, learned counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C., at length. There is no dispute that the applicant passed the HSSLC examination from Nagaon Higher Secondary School in the year 1964. The Service Book also shows that the authority acted upon the certificate issued by the Government Higher Secondary School, Nowgong, which mentioned that the age of the applicant was 20 years 1 month 1 day on the first day of March 1964, as per the Higher Secondary Certificate which was the basis of computing the age of the applicant. The Service Book also shows that the applicant passed Higher Secondary in the year 1964. The basis of the entry was the Higher Secondary Certificate issued by the Board of Secondary Education, Assam. As per the certificate, the date of birth.....

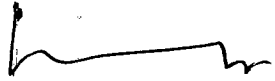
birth of the applicant was 1.2.1944, but it was recorded as 1.2.1943 instead of 1.2.1944 in the Service Book. The age that was so recorded in the Service Book, admittedly, was based on the School Leaving Certificate produced by the applicant and the entry in the Service Book was obviously made on the basis of the age shown as 20 years 1 month 1 day on the First day of March 1964. The entry was seemingly made without due care and caution. Evidently, the error was nothing but a clerical error. While rejecting the claim of the applicant, the authority no doubt referred to the Government Circular and confined to the letters of the instructions. Admittedly, it is not a case of alteration of age. It is only a case of correction of a manifest error of clerical nature. The Government instructions dated 30.11.1979 cited at Note 5 below FR 56 though mentioned that requests for correction of date of birth is to be made within five years of entry into Government service, the correction of the date of birth is also possible if it is clearly established that a genuine bona fide mistake had occurred and that the date of birth so altered would not make him ineligible to appear in any school or University or Union Public Service Commission examination in which he had appeared, or for entry into Government service on the date on which he first appeared at such examination or on the date on which he entered Government service.

6. Admittedly, the applicant did not gain any undue advantage by showing his date of birth as 1.2.1943, though his date of birth was 1.2.1944 as per the Certificate. The error which is apparent on the face of the record is not to be scornfully rejected on mere technicalities.....

technicality. Admittedly, calculation of the date of birth was vitiated by an arithmetical error. To err is human and that error was required to be rectified lest it will not be embarrassing to adhere to the blunder made.

7. On consideration of all the aspects of the matter it is apparent that the date of birth of the applicant was wrongly recorded in the Service Book as 1.2.1943 instead of 1.2.1944. The impugned order of rejection of the representation is, therefore, considered to be unsustainable and the same is quashed. The respondents are now directed to take remedial steps by correcting the date of birth of the applicant from 1.2.1943 in the Service Book of the applicant and treat his date of birth as 1.2.1944 and to provide him the service benefits as per law.

8. The application is accordingly allowed. There shall, however, be no order as to costs.


(D. N. CHOWDHURY)
VICE-CHAIRMAN

19
(Copy required 2+6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An Application under Section 19 of the Administrative Tribunals Act,
1985)

Title of the case : O. A. No. 195 /2002

Sri Kshitish Chandra Das : Applicant

- Versus -

Union of India & Others : Respondents.

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Filed by

Date

Advocate

Sri Kshitish Chandra Das

*Filed by the applicant
through Sri G. N. Chakraborty
Advocate on 12-05-02
Das*

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI**

(An Application under Section 19 of the Administrative Tribunals Act,
1985)

O. A. No. 195 /2002

BETWEEN

Sri Kshitish Chandra Das
Son of Late Jatin Chandra Das
Working as Sub Postmaster
Sub Post Office, Lanka,
District-Nagaon

.....Applicant

--AND--

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,
North East Postal Circle,
Meghdoot Bhawan,
Guwahati-781001.
3. The Postmaster General,
Dibrugarh Division,
Dibrugarh, Assam.

Sri Kshitish Chandra Das

- 4. The Superintendent of Post Offices,
Nagaon Division,
Nagaon, Assam.

.....Respondents.

DETAILS OF THE APPLICATION

1. **Particulars of order(s) against which this application is made.**

This application is made against the impugned order of rejection issued under letter dated 29.01.2002 by the Superintendent of Post Offices, Nagaon Division, Nagaon whereby the Superintendent of Post Offices, Nagaon refused to rectify the bona fide clerical error committed by the dealing assistant while recording the date of the applicant in his service record and praying for a direction upon the respondents to treat the date of birth as on 1.2.1944 in place of 1.2.1943 as per the Higher Secondary School Leaving Examination 1964 issued by the Board of Secondary Education, Assam and also praying for a direction to allow the applicant to continue in service as per correct date of birth i.e. 1.2.1944, till the retirement on superannuation with all consequential service benefits.

2. **Jurisdiction of the Tribunal.**

The applicant declares that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. **Limitation.**

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. **Facts of the case.**

SKR Kshetish Ananda Das

1.3.1964
20-1m-1dy 1/3/64
1.2.1944

- 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 your applicant was initially appointed as Postal Assistant and joined in service on 25th May 1957. The applicant has passed his Higher Secondary Examination in the year 1964 from Nagaon Higher Secondary School, Nagaon under the Board of Higher Secondary Examination, Assam. As per Higher Secondary School leaving certificate 1964 is 20 years 1 month 1 day on the 1st March, 1964. Therefore the date of birth of the applicant as per the Higher Secondary Certificate is 1st February 1944. The applicant is presently working as Sub Postmaster, Sub Post Office, Lanka under the Superintendent Post Offices, Nagaon Division, Nagaon.
- 4.3 That your applicant while working as such the wrong entry of his date of birth in the service records came to his notice for the first time on 22.12.2001 and the applicant immediately therefore made a representation on 22.2.2001 to the Superintendent of Post Offices, Nagaon praying inter alia for correction of the same. However the said representation of the applicant was rejected by the Superintendent of Post Offices, Nagaon Division on 29.1.02 vide letter No.B-120 on the pretext that it was too late to consider the matter. It is also stated in the said impugned letter dated 29.01.02 that in case if there is any difference in the recorded date of births the objection should have been made while signing the 1st page of the service book within 5 years of his service. It is needless to mention here that his service book which was required to be countersigned in each and every year at the instance of the respondents but the same was never done by the respondents as such the applicant had no opportunity or scope to go through the service book as required under the rule. It is stated that his signature was obtained only on 30.11.1968

Shri Kshetish Chandra Deb

and the entry of the date of birth was recorded by the then dealing Assistant. Therefore the responsibility cannot be thrown upon the shoulder of the applicant.

It is submitted that the applicant also obtained a photocopy of the 1st page of the Service Book through Proper Channel for production of the same before the Hon'ble Tribunal.

A Photocopy of Higher Secondary School leaving Certificate 1964 and a Photocopy of the 1st page of Service Book and the representations dated 22.12.2002 are annexed **Annexure 1,2,3 and 4** respectively.

4.4 That your applicant being aggrieved by the impugned order of rejection dated 29.1.2002 the applicant had preferred another representation on 5.2.2002 addressed to the Post Master General, Dibrugarh Region, Dibrugarh. In the said representation the applicant inter alia stated that during the initial entry into service he was submitted his age proof certificate before the respondents and fairly stated that he was too young while entered into service and signed the Service Book as required. As such, he prayed that his valuable one year service should be restored by recording the correct date of birth by way of correction and further prayed that his service for one year should not be deprived on the pretext of delay in raising objection while signing the Service Book, but surprisingly no reply is received till date by the applicant from the Post Master General, Dibrugarh.

A copy of the representation dated 5.2.2002 is annexed as **Annexure-5**.

4.5 That your applicant finding no response from the respondents preferred another representation on 30.3.2002 for correcting the said clerical mistake while recorded the date of birth in his Service Book. The applicant thereafter, again submitted another

Shri Kshetish Kumar Das

representation to the Superintendent of Post Offices, Nagaon for correction of date of birth and also supplying of attested copy of the 1st page of his Service Book, although attested copy of the 1st page of Service Book of the applicant is supplied to him but unfortunately no action is initiated for correction of the bona fide clerical mistake which was recorded in the Service Book of the applicant.

It is pertinent to mention here that the case of the applicant so far date of birth is concerned, is not a case for alteration of date of birth on the basis of any document but it is a case for correction of a bona fide clerical mistake. As a result of which a wrong date of birth is recorded in the Service Book of the applicant due to wrong computation. As such the ground for rejection of the prayer of the applicant for correction of the bona fide clerical mistake on the pretext that it is too late and the same ought to have been brought to the notice of the respondents within five years from the date of initial entry into the service is irrelevant and the said five years limitation as stated by the respondents cannot be applied in the instant case of the applicant. Therefore, the impugned order issued under letter dated 29.1.2002 is liable to be set aside and quashed.

Copy of the representation dated 30.3.2002, representation dated 29.4.2002 are annexed hereto as Annexure 6 and 7 respectively.

- 4.6 That it is stated that the date of birth of the applicant was recorded in his Service Book during the year 1968 on the basis of Higher Secondary passed examination certificate issued by the Secondary Board of Assam, Guwahati but it appears that a bona fide clerical mistake is occurred while calculated and recorded the date of birth of the applicant in the Service Book. Therefore, due to bona fide clerical mistake on the part of the administration when the higher Secondary Examination passed certificate was available with the respondents the applicant cannot be forced to

Shri K. Shilish Chandra Das

suffer irreparable loss to the extent of one year valuable service on administrative error and a bona fide clerical mistake can correct always be corrected by the administration.

As per recorded date of birth the applicant is liable to be retired on superannuation on 31.1.2003 whereas per correct date of birth the applicant is liable to be retired on superannuation on 31.1.2004. therefore the applicant is going to suffer irreparable loss to the extent of one year valuable service if the correction of date of birth is not carried out in the Service Book. It is a fit case for the Hon'ble tribunal to interfere with and to protect the right and interest of the applicant.

4.7 That your applicant submitted several representations before the competent authorities for necessary correction of his date of birth in the Service Book but the Superintendent of Post Offices, Nagaon rejected his representation his impugned letter dated 29.1.2002 on the alleged ground of inordinate delay in raising objection for correction of the date of birth. But the case of the instant applicant is bona fide clerical mistake while recording the date of birth from the Higher Secondary Examination passed Certificate, which was submitted by the applicant before the respondents at the relevant time. As such, the respondents are duty bound to rectify the bona fide clerical mistake for wrong entry of date of birth of the applicant in the Ist Page of the Service Book of the applicant.

4.8 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

5.1 For that, a bona fide mistake is occurred while recording the date of birth of the applicant in his Service Book by

S/s: Kshelish Chandr Das.

the administration, as such the authorities are liable to correct the same.

- 5.2 For that, the correct/actual date of birth of the applicant as per Higher Secondary School Leaving Certificate Examination is 1.2.1944 but the administration has wrongly recorded as 1.2.1943. As such the respondents are duty bound to make necessary correction of the wrong entry of date of birth of the applicant in his Service Book.
- 5.3 For that, the instant case of the applicant is not a case for alteration of date of birth of the applicant on the basis of any document but it is a case for correction of date of birth which was wrongly recorded by the administration on the basis of available certificate in the custody of the respondents.
- 5.4 For that, the rejection of the representation of the applicant for correction of the date of birth on the alleged ground of delay and limitation of five years is not relevant in the instant case of the applicant as such the impugned order is liable to be set aside and quashed.
- 5.5 For that, it is a settled position of law that an administrative error can always be corrected without any limitation or restrictions.
- 5.6 For that, due to an administrative error, the applicant cannot be made to suffer irreparable loss to the extent of one year valuable service.

6. Details of remedies exhausted.

That the applicant states that he has exhausted all the remedies available to him and there is no other alternative and efficacious

Sri K. S. H. Tish Chandra Das.

remedy than to file this application. The applicant submitted several representations but the same were rejected by the respondents on the ground of limitation.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 [That the respondents be directed to record the correct date of birth i.e. 1.2.1944 in place of 1.2.1943 in the Service Book of the applicant.
- 8.2 That the respondents be directed to treat the date of birth of the applicant as 1.2.1944 in his Service Record for the purpose of retirement on superannuation and for all other purposes.
- 8.3 That the respondents be directed to allow the applicant to continue in service up to 31.1.2004 treating the date of birth as 1.2.1944.
- 8.4 Costs of the application.

Shri Kshitesh Chandra Das

8.5 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following relief: -

9.1 That the pendency of this application shall not be a bar for the respondents to consider for correction of the date of birth of the applicant during the pendency of this application.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

- i) I. P. O. No. : 7G 577500, dated 18.6.2002.
- ii) Issued from and payable at: G.P.O., Guwahati.

12. List of enclosures.

As given in the index.

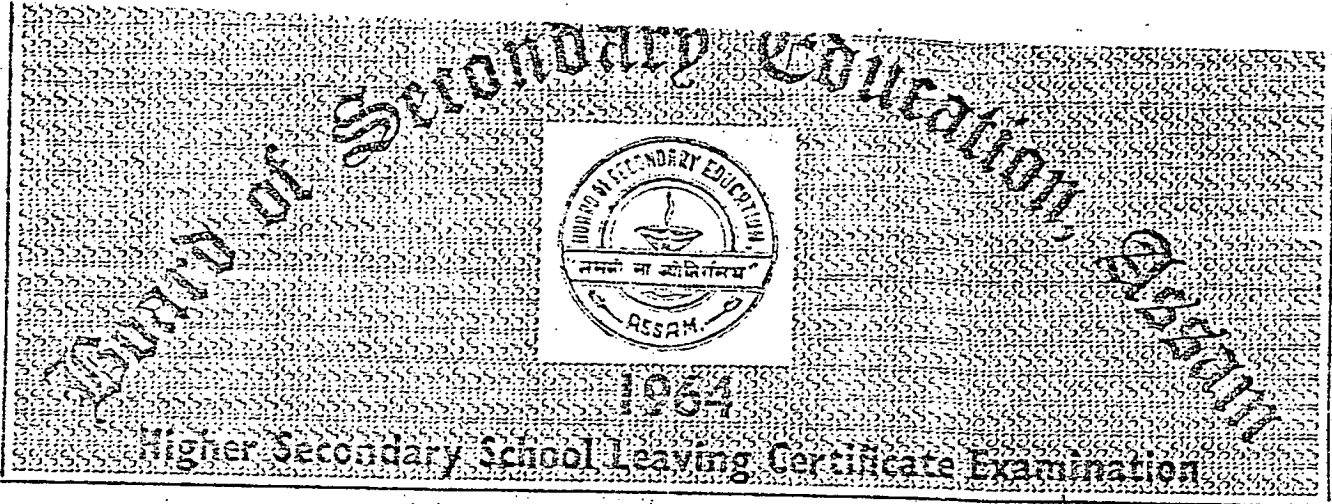
Shri Rakesh Chandra Deb

VERIFICATION

I, Shri Kshitish Chandra Das, S/o Late Jatin Chandra Das, aged about ...years, working as Sub Postmaster, Sub Post Office, Lanka, District Nagaon, Assam, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 13th day of June, 2002.

Shri Kshitish Chandra Das.



I Certify that Rehish Ch. Das
 Roll P. No. 46 of Newgong Govt. H.S. School,
 aged 20 years 1 months 1 days on the First of March, 1964, duly passed
 the Higher Secondary School Leaving Certificate Examination 1964
 of this Board in Humanities Group and was placed in
Second Division.

*Attested
 Secy.
 Adm. Cell*

GAUHATI, ASSAM

Attested
 K. S. Prasad
 V. S. Prasad, Surgeon
 Key Hall Centre
 Lakhimpur, Dist. Nagaon

[Signature]



Office of the Headmaster,
Government Higher Secondary School,
NOWGONG, ASSAM.

Certificate No. - 140
Date - 2.7.64

This is to certify that Shri *Kshilish Chandra Das*
(Roll No. P 46) a student of this school / a Private candidate appeared in
the Higher Secondary School Leaving certificate examination 1964, held by
the Board of Secondary Education, Assam, and passed the said examination
being placed in the *Second* Division.

Subjects offered by him in the Higher Secondary course :-

(A) Core Subjects :-

- (1) English (2) Assamese (3) General Mathematics
- (4) General Science (5) Social Studies (6)

(B) Elective Subjects :-

- (1) *History* (2) *Geography* (3) *Art*
- (4)

Stream :- SCIENCE / HUMANITIES

His age on 1st March, 1964 :- 20 (*Twenty*) Years / (*one*)
Months / (*one*) days.

Character and Conduct :- *Good*

Any other remark :-

*Shri Das used to take part in the
extra-curricular activities of the school. He is
fine sportsman and was an A.C.C. captain.
He was besides actively connected with the
social service activities sponsored by the school.*

*Attested
by
Headmaster*

W. B. Das

Head Master,
GOVT. HIGHER SECONDARY SCHOOL,
NOWGONG, (ASSAM.)

Recd
24/6
25/12

26

To,

The Supdt of post offices, Nagaon Division, Nagaon [Assam]

Sub: Prayer for correction of date of birth in the gradation list

Sir,

I have the honour to inform you that my date of birth was shown in the gradation list is 1943 instead of 1944. as per my school certificate issued by the Board Of Secondary Education Guwahati Assam, the date of birth on first of March 1964 was 20 yrs one month one day.

I, therefore, cordially request you kindly correct the gradation list accordingly. A photocopy of school certificate is enclosed herewith for your kind ref.

day month year

1 3 1964

1 1 20

0 2 1944

Yours faithfully

K. C. Das

Subd Div. Nagaon

24/12/01

*Alleged
Advocate*

*1943
60
03*

210

सुपरीन्टेण्डन्ट ऑफ पोस्ट ऑफिस,
Nagaon Division
Nagaon 782001

Deptt. of Posts, India

27

To

Smt. K. C. DAS,
SPM, Lankar SO

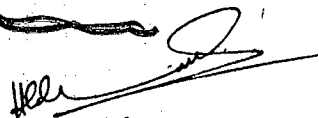
NO. B-120 Dt. at Nagaon the 29 ⁰¹/₀₂

Emb:- Correction of date of birth -
case of Smt. Kshitesh Ch. Das
SPM, Lankar S.O.

Ref:- your letter dt. 22-12-01.

In case any difference
in your date of birth, the objection
should have been raised while signing
first page of service book etc
within 5 years of service. It is
too late to consider the matter.

Attested
for
Admission


सुपरीन्टेण्डन्ट ऑफ पोस्ट ऑफिस,
Superintendent of Post Offices |
Nagaon Division
Nagaon 782001

To

The Postmaster General,
Dibrugarh Region,
Dibrugarh- 786 001.

LD 7/21
5/2/02

Through the SPOs, Nagaon Division, Nagaon (Assam).

Sub.: Correction of entry of date of birth in Service-Book.

Sir,

With due respect and humble submission, I beg to lay following few lines before your goodness for favour of kind consideration and sympathetic actions -

That sir, I entered in the Dept. on 25/05/67 as a Postal Clerk in Central Assam Division. My date of birth according to my school certificate submitted at the time of my joining in the Department was February, 1944 and accordingly my date of retirement would have been February, 2004. But of late, I come to know that my date of birth has been recorded as Feb., 1943 in my Service Book as well as in Gradation list issued by the department. As a result, I shall be compelled to retire from service one year - advance of the actual due date which will be irreparable loss to me.

That sir, I submitted one representation to the SPOs, Nagaon on 22/12/2001 praying for correction of the entry of my date of birth which has been regated by the SPOs Nagaon with the following minor objections :-

" In case any difference in your date of birth, the objection should have been raised while signing first page of Service Book or within 5 (five) years of service. Now, it is too late to consider the matter."

That sir, on above objection of the SPOs, Nagaon, I state to state that while signing the first page of my service book, I was too young in the department to know all the rules and procedures of the department. As my age proof certificate submitted at the time of my entry in the department will definitely be available in my service records maintained by the department, it will not be justice to deprive me of one year service only on the above plea. Because I have submitted the copy of some age proof certificate again to the SPOs, Nagaon alongwith my representation dt. 22/12/01.

Under the above circumstances, I humbly submit before your kind justice for sympathetic consideration into the matter allowing me to continue in service upto to the actual date of my retirement based on the age proof certificate, the copy of which is enclosed herewith.

With regards,

Yours faithfully,

Encls.: As stated above,

Day	Month	Year
1	3	1964
1	1	- 20
0	2	1944

*Placed
in
Annexure*

Recd 8390
1/4/02

-17-
Annexure: 6

To The Postmaster General
Dibrugarh Region.

Dibrugarh - 786001

Through the Supd. of P's
Nagarn

Ref. no. - Representation dated 25/1/02
submitted through the Supd. of P's
Nagarn in.

Subj. - To give for correction
entry of date of birth in service

Sir,

With due respect and humble
submission I beg to inform you that as
per official record in the date of birth
recorded in service book, my retirement
is knocking at the door. I am in great
tension when it was detected that I am
going to retire from service one year
advance of the actual due date which
will be irreparable loss to me and for
this reason I am passing my days in
anxiety.

I therefore pray that you would
be kind enough to consider my case
favorably so that I may be released
from tension at an early date.

Dated Lanka }
The 30.3.02 }

Yours faithfully,

Shri Kshitish Chandra Das
S. Lanka
Nagarn (Assam)

Attested
for
Advocate

Annexure-7

To
The Superintendent of Post Offices,
Nagaon Division.

Sub : Request to supply the attested copy of First Page of my Service Book.

Sir,

I have the honour to inform you that my date of birth as per my Original School Certificate is 1944 but as per official record my date of birth was recorded 1943. In this regard I brought the case to the notice of the Superintendent of Post Offices, Nagaon Division for correction of the same but my prayer was regretted. Thereafter I appealed to the Post Master General, Dibrugarh Region, through the Superintendent of PO's Nagaon Division to consider my case favourably but after waiting for two months I sent a reminder to the Post Master General, Dibrugarh Region through the Superintendent of Post Offices, Nagaon Division. It is a matter regret that I have not yet received any response. As a result of which I am in great tension and moreover any date of retirement is close at hand. Now I think that I am no other alternative but to proceed to the Court of justice (C.A.T.).

I therefore, cordially request you kindly to supply me an attested copy of First page of my Service Book as early as possible.

Dated : Lanka the 29.4.02

Yours faithfully,

(K.C.Das)
S.P.M./Lanka

*certified to
me same copy
Advocate*

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH I: GUWAHATI

O.A. NO. 195 OF 2002

Shri K.C. Das.

-vs-

Union of India & Ors.

-And-

In the matter of ::

Written statement submitted by the respondents.

The respondents beg to submit written statement as follows :-

1. That with regard to paras - 1 to 4.1 of O.A., the respondents beg to offer no comments.
2. That with regard to para- 4.2 of O.A., the respondents beg to state that the applicant was initially appointed as clerk on 25.5.1957 and service book was also opened. The 1st page of the service book was written by the Postmaster, Tezpur on the basis of the records and documents submitted by the applicant. Accordingly the date of birth was noted as 01.02.1943 correctly in words and figures. The contents 1st page of service was duly authenticated by the applicant under his dated signature on 30.11.1968 and the same was attested by the Postmaster Tezpur on 1.12.1968.
3. That with regard to para - 4.3 of O.A., the respondents beg to state that the context of the para -is not based on facts and totally contradicts the rules and orders of the department. The first page of service book was duly authenticated by the applicant on 30.11.68 and thus it is not true that the case had come to the notice of the applicant only on 22.12.2001.

contd...P/2

Filed by

Superintendent of Post Offices,
Nagaon Division
Nagaon 782001

(A. DEBROY)
Sr. C. G. C. C.

C. A. T., Guwahati Bench

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Gradation list of all the officials including name of the applicant were circulated time to time to make any correspondence if any wrong entry is noticed. The applicant has never raised any objection during his long 35 years of service.

When the applicant was working as Postmaster, Diphu H.O. for the period from 7.8.01 to 15.11.01 received the Gradation list of all officials including the applicant for verification and report. The applicant submitted report with signature that the service particulars were verified and found correct.

As per rule, an ~~alteration~~ alteration of date of birth can be made within five years of his entry into Government service.

4. That with regard to para - 4.4 of O.A., the respondents beg to state that the contents of the para is untrue. The Postmaster General, Dibrugarh Region, Dibrugarh rejected the case of applicant under R.O. letter No-AP/RP/1-6/99 ~~and~~ dated 11.6.02 which has been informed to the applicant under letter no-B-120 dated 14.6-02.

5. That with regard to para 4.5 & 4.6 of O.A., the respondents beg to state that the facts already stated in para 4.3 above.

6. That with regard to para - 4.7 of O.A., the respondents beg to state that the respondents cannot go beyond the rules and regulations. As per Chapter 57 of Swamy's complete Manual on Establishment and Administration, an employee can make a request for alteration of date of birth within five years of his entry into Govt. Service. It was the duty of the applicant to claim for correction of his date of birth had there been a genuine bonafide mistake within the stipulated period

7. That with regard to para - 4.8 of O.A., the respondents beg to offer no comments.

8. That with regard to para 5.0 of O.A., the respondents beg to state that no bonafide mistake is occurred and thus question of correction does not arise.

9. That with regard to para - 5.2 of O.A., the respondents beg to state that the facts already stated above in para - 5.1

10. That with regard to para - 5.3 of O.A. the respondents beg to state that not based on fact. The date of birth was recorded on 30.11.68 on the basis of the documents submitted by the applicant in the service book which is a permanent record.

11. That with regard to para 5.4 of O.A., the respondents beg to state that Government policy regarding rejection of belated claim for alteration in the date of birth is reinforced by Hon'ble Apex Court(Civil Appeal No- 502 of 1993- Union of India VS Harnam Singh - Judgment dated 9.2.1993).

12. That with regard to paras- 5.5 to 9 of O.A., the respondents beg to offer no comments.

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

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

I, Shri Helaluddin Ahmed presently
working as *Supdt. of Post Offices, Nagaon* be duly authorised
and competent to sign this verification ~~be duly~~ do hereby
solemnly affirm and state that the statements made in para
3, 6, 8 and 10 are true to my ~~kn~~ knowledge and belief,
these made in para 2, 3, 4 and 11 being mater
of records, are true to my information derived therefrom
and rest are my humble submission before this Hon'ble Tribunal,
I have not suppressed any material facts.

And I sign this verification on this 20 th day
of August, 2002.



Declarant.

सुपरिन्टेंडेंट पोस्ट ऑफिस,
Nagaon Division
Nagaon 782001

Staff 3928

(6)

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Postmaster H.P.
Diphu-782001



Postmaster H.P.
Diphu-782001

B2/G4/6000

Dated Diphu 7.11.2001

Separation of ... B.C.R (H.P. - II, Post) on 1.7.2001

At B2/G4/6000 dated 30.10.01

The service particulars of the B.C.R. officials are ... and found ...

Sl. No.

- 2) Shri. ...
- 3) ...
- 15) ...
- 16) ...
- 17) ...
- 22) ...
- 23) ...
- 25) ...

Bul. ... (3) ... Chandan K - ... could ... avoid ... to D.O. ... 16 ...

encl. 5 - vizily - list (2) - two

Signature
S.C.I.
Diphu-782001

(7)

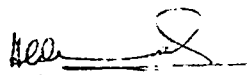
Seniority list

Sl. No.	Name of the official	Community	Date of birth	Date of entry in PA in CC	Date of entry in LSG/TSTB	Date of entry in BCR
1	Sri Purna K. Kakoti	OC	1-1-42	4-12-62	22-2-81	1-10-91
2	" " " " " "	OC	1-7-42	2-2-64	20-7-81	1-10-91
3	" Chandra K. Das	OC	1-3-42 ✓	6-9-61 ✓	30-11-83 ✓	1-10-91
4	" Lila Devi Kakoti	OC	1-2-42	15-7-61	30-11-83	1-10-91
5	" Kajani K. Sankar	OC	1-3-43	7-3-63	30-11-83	1-10-91
6	" Agnive Kabman	OC	1-6-43	22-5-63	30-11-83	1-10-91
7	" Khagendra Nath Rakha	ST	1-1-42	3-8-63	30-11-83	1-10-91
8	" Badam Ch. Nath	OC	1-3-45	2-6-64	30-11-83	1-10-91
9	" Sarda Ram Kamate	ST	1-9-44 ✓	1-2-65 ✓	30-11-83 ✓	1-10-91
10	" Adal Ch. Satima Baruah	OC	1-3-44	12-2-65	30-11-83	1-10-91
11	" Sadyanta Phukan	OC	1-12-46	1-9-65	30-11-83	1-11-91
12	" Surendra Nath Baruah	ST	1-8-45	1-7-65	30-11-83	1-1-92
13	Smti Anetai Baruah	ST	1-3-47	21-3-66	30-11-83	1-7-92
14	Sri Noma Baruah	OC	1-2-46	25-5-67	30-11-83	1-7-93
15	" Khilish Ch. Das	OC	1-2-43 ✓	25-5-67 ✓	30-11-83 ✓	1-7-93 ✓
16	Smti Anuradha Borah	OC	17-1-47 ✓	5-6-67 ✓	30-11-83 ✓	1-7-93 ✓
17	Sri Lahu Ram Kalita	OC	1-9-47	8-10-68	8-10-84	1-1-95
18	Sri Jayneswari Borah	OC	1-7-48	1-2-69	1-2-85	1-7-95

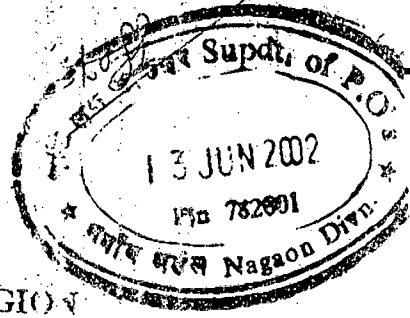
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19	Sruti Smacheta Day ✓	CC	17.7.48 ✓	1-8-69 ✓	1-8-85 ✓	1-1-96 ✓
20	Sri Narayn Ch. Hagarika ✓	CC	1-1-47	14.8.69	14.8.85	1-1-96
21	" Jatintha Mchew Deb	CC	1-4-44	10.8.67	10.8.85	1-1-96
22	" Satis Ali ✓	CC				
23	Ummam Mahi Suman	CC	1-9-47	2-4-70	2-4-81	1-7-94
24	" Sri Subhannata Kuter	CC	1-1-47	14.4.70	17.4.86	1-7-96
25	Sri Chidambai Pathe ✓	ST	1-3-50	2.7.70 ✓	2-7-86	1-7-96
26	" Sivarajam Bhanu	CC	23.3.43	20.7.71	20.7.84	1-1-96
27	" Rammami Mchew Deb	ST	1-3-50	24.12.71	24.12.87	1-1-98
28	" Chidambai Pathe ✓	ST	16.7.49 ✓	1-1-72 ✓	1-1-88 ✓	1-1-98 ✓


 Superintendent of Post Office
 Nagaon / Nagaon Division
 Nagaon / Nagaon 782001

9



DEPARTMENT OF POSTS : INDIA
O/C THE POSTMASTER GENERAL, DIBRUGARH REGION
DIBRUGARH - 786001.

NO : AP/RP/1-6-99

Dated at Dibrugarh the 11-06-2002.

To
The Supdt of Pos
Nagaon Division
Nagaon - 782001

Subject :- Regarding correction of Date of Birth in Service Book of Sri Kshitish ch. Das,
SPM, Lanka S.O

Ref :- Yours letter No. 13-20 dated 12-02-2002.

With reference to your office letter no. cited above on the above subject it is to be informed that the claim case of correction of Date of birth in Service Book of Sri Kshitish ch. Das, SPM, Lanka S.O. is to be directly rejected as per G.I. Dept. of Per & Trg. O.M. No. 19017/2/92-Estt. (A) dated 19th May, 1993 as his claim is to be treated as belated claim for alteration in date of birth are not strictly fulfilled the following conditions :

- (a) an employee makes a request in this regard within five years of his entry into Government Service ;
 - (b) it is clearly established that a genuine bona fide mistake had occurred ; and
 - (c) the date of Birth so altered would not make him ineligible to appear any School or University or UPSC examination in which he had appeared , or for entry into Government Service on the date on which he first appeared at such examination or on the date of entry into Government Service.
- Chapter 57. (Swaney's Complete Manual on Establishment and Administration)

(A.B. SEAL) 11/6/02
ADPS (A/Cs)
O/O the Postmaster General
Dibrugarh Region, Dibrugarh - 786001.

3000000000
10-
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

In the matter of :

O.A. No. 195 of 2000

Shri Khitish Chandra Das

-vs-

Union of India & Ors.

-And-

In the matter of

Rejoinder submitted by the applicant in reply to the written statement submitted by the Respondents.

The applicant above named most humbly and respectfully begs to state as under :

1. That your applicant categorically denies the correction of the statements made in paragraphs 2,3,4,5 and 6 of the written statement and further begs to state that although the date of Birth of the applicant is recorded on the basis of the document i.e. on the basis of H.S.S.L.C. Examination Certificate (Annexure-1 to the O.A.), but mistake is occurred while calculated the date of Birth by then dealing Assistant. Therefore it is simply a bona fide clerical mistake on the part of

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Filed by the applicant
through Sri G. N.
Chakravarty on 22-3-02
Sri Advoca

-11-
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the administration. It would be evident from Annexure-2 of O.A. i.e. 1st page of the Service Book of the applicant that it was recorded in column 7 of the Format that the applicant had passed Higher Secondary Examination 1964. Therefore it is crystal clear that the date of Birth of the applicant was recorded on the basis of Annexure-I of O.A. i.e. H.S.S.L.C. Examination Certificate, wherein it is clearly written that the applicant had attained 20 years 1 month 1 day on 1st of March 1964, therefore correct date of birth of the applicant is 1st February 1944.

It is further submitted that if there is any doubt arises regarding the actual date of birth, the respondents may verify the same from the Board of Secondary Education, Assam. It is pertinent to mention here that it is not a case for alteration of date of birth but an application for a direction to correct a bona fide clerical mistake which occurred while date of birth is recorded in the Service Book of the applicant, as such, the question of limitation of 5 years not applicable in the instant case of the applicant. In this connection, it may be stated that even the Government of India also made a specific provision for correction of a bonafide mistake if occurred while date of birth is recorded in the Service Book of Employees.

2. That your applicant categorically denies the statement made in paragraphs 8,9,10 & 11 of the written statement and further reiterate the statements made in the

Original Application. The case of the applicants is also supported by the decision of this Hon'ble Tribunal in O.A. Nos. 118/96, 174/98, 16/96, and 414/2000.

Copies of above judgments in O.A. 118/96, 174/98, 16/96 and 414/2000 are annexed as **Annexure-8** (Series).

In the facts and circumstances stated above, the Original Application deserves to be allowed with costs.

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VERIFICATION

I, Shri Kshitish Chandra Das, S/o Late Jatin Chandra Das, working as Sub Postmaster, Sub Post Office, Lanka, District Nagaon, Assam, applicant in the O.A. No.195/2000, do hereby verify that the statements made in Paragraph 1 and 2 of this rejoinder are true to my knowledge, and I have not suppressed any material fact.

And I sign this verification on this the day of September, 2002.

Shri Kshitish Chandra Das

-5-
CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Annexure - "B"
(series)
14

Original Application No.118 of 1996.

Date of decision : This the 9th day of December, 1999.

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

Shri Ardhendu Sekhar Das,
Ex-Chief Commercial Inspector, Grade-I,
N.F.Railway,
Son of late Haran Chandra Das,
P.O. Ulubari, Behind Hotel 'Shiva'
Mukti Jujrah Path,
Guwahati-781007.

Applicant

By Advocate Mr. M.Chanda.

-versus-

1. Union of India
through General Manager,
N.F.Railway,
Maligaon,
Guwahati-781011
2. Divisional Railway Manager(P),
N.F.Railway,
P.O. Lumding,
District-Nagaon,
Assam

Respondents

Chief Personnel Officer,
N.F.Railway
Maligaon
Guwahati

Respondents

By Advocate Mr. J.L.Sarkar.

O R D E R

BARUAH J.(V.C.).

In this application the applicant has challenged the date of birth and the date of superannuation as calculated by the respondents and also the Annexure-3 letter dated 6.2.95 issued by the Divisional Railway Manager, N.F.Railway, Lumding refusing to alter the date

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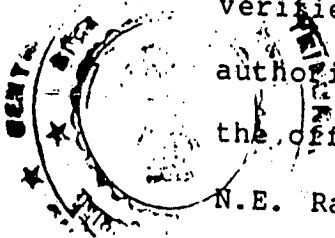
Attested
by
Advocate

[Handwritten signature]

of birth on the appeal submitted by the applicant and seeks other reliefs :

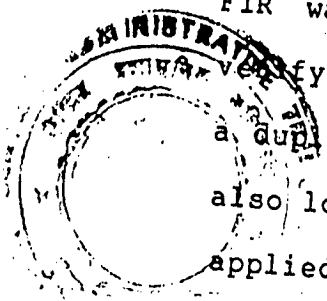
Facts as stated by the applicant are :

The applicant was initially appointed Junior Clerk through the Railway Service Commission, Allahabad in the month of March 1957. At that time he was matriculate. He passed his matriculation examination in the year 1953. According to him, his date of birth as indicated in the matriculation certificate is 1.5.1937 in as much as the certificate showed that he was 15 years 10 months on the first day of March, 1953. The applicant further states that at the time of making entries in the form he gave the correct date of birth i.e. 1.5.1937. He further submits: attested copies of necessary documents including the matriculation certificate. All those were verified at the time of entry into service. Railway authorities also verified all original certificates in the office of the Chief Personnel Officer, Gorakhpur of N.E. Railway and since his joining he had been serving the said Railway and on bifurcation of N.E. Railway he served the N.F. Railways in different capacities. Later on he was promoted to the post of Chief Commercial Inspector Grade-I. The case of the applicant is that as per matriculation certificate his date of birth was 1.5.1937 and accordingly he would reach the age of superannuation on the expiry of 30.4.1995. However Railway Authorities issued notice of retirement asking the applicant to retire on superannuation on the expiry of 28.2.1995 vide impugned Notice dated 8.5/6.94. In this connection the applicant further states that all along he showed his date of birth as per his matriculation certificate. According to the applicant.



[Handwritten signature]

asking him to retire on the expiry of 28.2.1995 was without verifying the original records. On receipt of the notice of retirement the applicant submitted representation dated 21.12.1994 with a request for correction of his date of superannuation. He also claimed that he had submitted the original documents. This representation was addressed to the Divisional Railway Mnager(P), Lumding, N.F.Railway. However the N.F. Railway informed him by a letter dated 10.1.1995 asking him to submit all the necessary pension papers. In the meantime he lost his original matriculation certificate issued by the Gauhati University in 1963. An FIR was lodged on 21.3.1963. On such FIR and after verifying other documents the Gauhati University issued a duplicate certificate. This duplicate certificate was also lost on 5.5.1994. Situated thus, the applicant again applied for yet another copy of matriculation certificate. The Gauhati University was pleased to issue another certifice of matriculation. According to the applicant this certifice also showed the correct date of birth i.e. 1.5.1937. Besides in the seniority lists prepared on 1.4.1990, 1.4.1991 and 1.4.1994 also showed the correct date of birth as per matriculation certifice i.e. 1.5.1937. However the authorities wrongly forced the applicant to retire on the expiry of 28.2.1995. The applicant according to his matriculation certificate was entitled to continue his service till the expiry of 30.4.95. The contention of the applicant is that due to arbitrary decision of the respondents on the basis of wrong calculation he was asked to retire prior to reaching of the age of superannuation.



[Handwritten Signature]

Contd...

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2. In due course the respondents have entered appearance and filed written statement. The applicant has also filed rejoinder. In the written statement the respondents have stated that the Chief Commercial Superintendent(Personnel) by his letter dated 18.11.1965 directed the applicant to submit the original matriculation certificate for verification of his date of birth. The applicant however informed the Railway administration that his matriculation certificate had been lost and he approached to the University. He further stated the certificate in question as duplicate of the original would be submitted as soon when received from the University. But for about 29 years he did not submit the same. On 21.12.1994 he submitted a photocopy of a duplicate matriculation certificate. At that time he also stated that his duplicate certificate was also lost. The respondents have denied the averments made by the applicant in the Original Application. Certain documents have been annexed with the written statement. These annexures also showed that the applicant was directed to produce original matriculation certificate. In the rejoinder also the applicant reiterated what he has stated in the Original Application. In the case records I see a copy of the duplicate certificate of matriculation.

3. Heard both sides. Mr. Chanda learned counsel appearing on behalf of the applicant submitted before me that a duplicate certificate was issued by the University showing the actual date of birth i.e. 1.5.1937 but the copy of the representation of the applicant is not before this Tribunal. It is not possible for this Tribunal to decide this matter. I feel Gauhati University can help the authorities to come to a

NA

correct decision. I made endeavour to find out the correct date of birth of the applicant from the Gauhati University also. But I feel the matter require further investigation.

4. On hearing the counsel for the parties I dispose of this application with direction to the respondents to take up the matter with the Gauhati University and find out the correct date of birth and if actually the applicant's date of birth as shown in the matriculation certificate i.e. 1.5.1937 is found correct surely the applicant was entitled to continue upto 30.4.1995. As the period has already elapsed in case date of birth of the applicant is 1.5.1937 in the matriculation certificate he is entitled only the pecuniary benefits. This must be done as early as possible at any rate within a period of two months from the date of receipt of this order.

5. Considering the facts and circumstances of the case, I, however make no order as to costs.

TRUE COPY

Sd/-VICECHAIRMAN

प्रतिप्रिनि

(Signature)
15/8/2018

Section Officer
प्रमुख अधिकारी (कार्यालय)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati
गुवाहाटी बेंच, गुवाहाटी

- 9 - 10 - 19 - Annexure "B" (series) 19

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 174 of 1998.

Date of decision : This the 11th day of January, 2000.

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

Hon'ble Mr. G.L. Sanglyine, Administrative Member.

Shri Sushil Kumar Sarmah,
Son of Late M.G. Sarmah,
Superintendent, Record Branch,
Director General, Assam Rifles,
Shillong-11.

..Applicant

By Advocate Mr. G.K. Bhattacharyya.

-versus-

- 1 Union of India,
Represented by the Secretary to
the Government of India,
Ministry of Home Affairs,
New Delhi-110001.
2. Director General, Assam Rifles,
Shillong-793011.
- 3 Deputy Commandant
Establishment Officer,
Directorate General,
Assam Rifles,
Shillong-793011

..Respondents

By Advocate Mr. B.C. Pathak, Addl. C.G.S.C.

O R D E R (ORAL)

BARUAH J. (V.C.).

*Affected
Advocate*

This application has been filed for correction of date of birth of the applicant. He passed his matriculation examination in the year 1961. As per the matriculation certificate his age was shown 18 years 1 month on the first of March, 1961. Calculating the said date his date of birth ought to have been 1.2.1943. However by mistake it was shown 1.2.1942. During the month of July, 1991 when the

SB
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authority demanded the original matriculation certificate for verification and on production the authority calculated his date of birth 1.2.1943, meaning thereby he would attain the age of 58 years on 1.2.2001. At that time the mistake was detected. Immediately thereafter the applicant submitted his application for correction of his date of birth. According to the applicant Annexure-II itself indicates that he would be in service upto 1.2.2001, otherwise Identity Card would not be valid upto 1.2.2001. The application submitted by the applicant was rejected by Annexure-V order dated 19.9.1997 on the ground that the prayer for alteration of date of birth was made at the belated stage. Thereafter the applicant submitted Annexure-VI representation dated 31.12.1997 and the same was also rejected by Annexure VIII order dated 4.12.1998. Hence the present application.

2. In due course the respondents have entered appearance and filed written statement. In the written statement the stand is reiterated by saying that as per rule the application for alteration of date of birth ought to have been filed within a period of five years.

3. We have heard Mr. G.K.Bhattacharyya, learned counsel appearing on behalf of the applicant and Mr. B.C. Pathak, learned Addl. C.G.S.C. Mr. G.K.Bhattacharyya submits that here the main point is it was the case of clerical error. He further submits that it is well established principle of law that the time begins to run from the day of detection of mistake and the rules and procedures are handmaid of justice. These are made for the ends of justice. He further submits that the mistake was detected when the Identity Card was issued showing that he would continue till 1.2.2001, meaning

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thereby he would attain the age of 58 years on 1.2.2001, that itself will go to show his date of birth 1.2.1943 had been accepted by the department.

4. On hearing the counsel for the parties we find no reason to reject the prayer of the applicant. Annexure-IV shows that the applicant came to know about the mistake from the gradation list. It is not known when the said gradation list was published. Be that, at it may, the fact is that the matriculation certificate has not been disputed by the respondents. In paragraph 6 of the written statement the respondents have stated as under:

" It is mentioned here that the Service Book of an employee is the only vital and authentic document for all purposes till he retires from service and Identity card helps an employee both official and private life even in complex circumstances."

5. We feel that justice should not be defeated on technical ground as the matriculation certificate is not disputed. Annexure-II also shows that the authority accepted the date of birth as 1.2.1943 otherwise the Identity card would not have been made valid upto 1.2.2001. It ought to have been 1.2.2000 only.

6. Considering the entire facts and circumstances of the case we accept the date of birth of the applicant as shown in the matriculation certificate and in all probability in such type cases matriculation certificate should be taken as authenticated document.

7. In view of the above, we hold the date of birth of the applicant is 1.2.1943 and not 1.2.1942. Accordingly the application is allowed.

8. Considering the facts and circumstances of the case, we make no order as to costs.

Sd/-VICECHAIRMAN
Sd/MEMBER (A)

Satisfied to be true copy
Dated 25/2/2002

25/2/2002

25/2/2002



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Annexure - B (16)

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I apply for the	Date fixed for notifying the requisite number stamp and teleos	Date of delivery of the requisite stamp and teleos.	Date on which the copy was ready for delivery	Date of making over the copy to the applicant
-1-2001	9-1-2001	10-1-2001	10-1-2001	10-1-2001

IN THE GAUHATI HIGH COURT
 (HIGH COURT OF ASSAM; NAGALAND; MEGHALAYA; MANIPUR; TRIPURA;
 MIZORAM AND ARUNACHAL PRADESH)

W.P.C. NO. 7274/2000.

1. Union of India, Through Secretary Ministry of Home Affairs, New Delhi.
2. Director General Assam Rifles, Shillong- 3.
3. Dy commandant, Establishment officer, Directorate General Assam Rifles, Shillong - 793011.

..Petitioners/ Respondents.

;-Vs-

Shri Sushil Kumar Sharma, S/O Late M.G. Sharma,
 Superintendent, Record Branch, Directorate General
 Assam, Rifles, Shillong- 793011.

... Respondents.
 Applicant.

;;PRESENT;;

THE HON'BLE THE CHIEF JUSTICE
 THE HON'BLE MR. JUSTICE P.G. AGARWAL.

Contd...2/-

*Assisted
 by
 Advocate*

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- 14-23 -



(15)
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-2-

For the petitioner :-Mr.P.N. Choudhury

For the respondent:-

Date:-3.1.2001. ORDER

N.C.JAIN, C.J.:-

This writ petition has been filed against the order of the Central Administrative Tribunal, Guwahati Bench Dated 11.1.2000, by which the date of birth of the respondent / employee has been co-rected and now, according to the corrected date of birth, he would retire on 1st of February, 2001.

While making the necessary correction, the Tribunal has primarily relied upon the entries about the date of birth as was recorded in the Matriculation certificate. No interference with finding of fact based upon Matriculation certificate is called for.

Dismissed in limine.

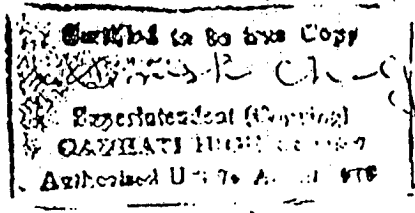
Sd/-P.G. AGARWAL.

Sd/-N.C.JAIN,

JUDGE.

CHIEF JUSTICE.

TYPED BY.....
READ BY.....
COMPARED BY.....



Chand
10.1.2001

- 15 -

ANNEXURE - A (6 copies)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

- 24 -

Original Application No. 16 of 1996

Date of decision : This the 19th day of August, 1998.

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

HON'BLE SHRI G.L. SANGLYIRE, ADMINISTRATIVE MEMBER.

Shri Shiv Nath G. Homin
Son of late Gijang R. Marak,
resident of village-Barbaka
P.O. Mandakatu
P.S. Kamalpur
Dist. Kamrup
Assam

.... Applicant

By Advocate Mr. M. Chanda.

-versus-

1. Union of India
through the General Manager
N.F. Railway,
Maligaon
Guwahati-781011

The General Manager (P)
N.F. Railway,
Maligaon,
Guwahati-781011.

3. Chief Personnel Officer,
N.F. Railway,
Maligaon,
Guwahati-781011

4. Deputy Chief Personnel Officer,
N.F. Railway,
Maligaon,
Guwahati-781011

.... Respondents

By Advocate Mr. H.E. Sharma

ORDER

BARUAH J. (V.C.).

In this application the applicant has challenged the entry of his date of birth in his Service Book and prays for a direction to the respondents to treat the applicant's date of birth as 1.8.1938 in place of 1.8.1937.

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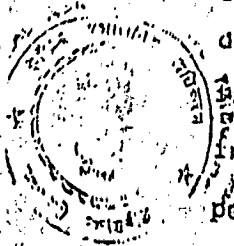
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*Attested
for
Advocate*

-16- 25

2. According to the applicant the date of birth in the Service Book was written by some other person and he put his signature and the thumb impression. The service record was renewed in the year 1995 and he put his signature and thumb impression. The facts for the purpose of disposal of the present application are :

3. On 31.5.1962 the applicant was appointed Junior Clerk. Before joining in service he submitted an application for selection to the post of Junior Clerk in the N.F.Railway. In his application he mentioned that his date of birth as 1.8.1938 as per his Matriculation Certificate. After his appointment to the post of Junior Clerk, a few years later the service particulars were entered including date of birth. All these entries were made by some other person, the applicant put only his signature. In that service records in column No.6 the date of birth of the applicant was shown as 1.8.1937. Instead of 1.8.1938. When the Service Book was updated in 1995 same particulars were also entered by some other person and the applicant put thumb impression and signature. The applicant in his present application has stated that these entries so far the date of birth is concerned, namely in his service book was wrong. In fact it was written by somebody and he was not very mindful at the time of putting his signature. This mistake was not detected during his long period of service. On 26.6.95 the Dy. C.E. issued a letter that his date of birth had been recorded as 1.8.37 and 1.8.38 in different records and the applicant was ordered to submit his valid documents in original. On the same day the applicant submitted his relevant documents in original including Matriculation Certificate to the competent authority and also stated that he was borne in



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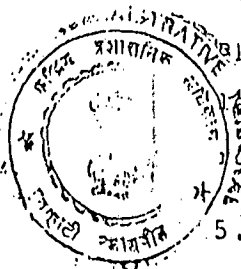
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August 1938 and not in 1937. The applicant states that at the time of filing of the application for entry into service in a prescribed form he also enclosed the Matriculation Certificate and Caste Certificate. However, the authority did not accept the date of birth as per the Matriculation Certificate and passed the order dated 31.8.95 that the applicant was to retire from service on 01.8.95. Hence the present application.

3. In the present application the applicant has challenged the impugned order Annexure-8 dated 31.8.95. The respondents have entered appearance and have filed written statement.

4. We have heard Mr. H.Chanda, learned counsel appearing on behalf of the applicant and Mr. B.K.Sharma, learned Railway counsel appearing on behalf of the respondents.

5. Mr. Chanda submits that it is true, the service book shows that the date of birth of the applicant is 1.8.1937. Mr. Chanda further submits that as per his Matriculation Certificate his date of birth is 1.8.1938 and not 1.8.1937. This Matriculation Certificate was enclosed alongwith his application during entry into service and after verification of the same by the Railway Authority the same was returned to the applicant. Mr. Chanda further submits that in the seniority list prepared by the respondents his date of birth was shown as 31.8.1938 instead of 1.8.1938. Mr. B.K.Sharma resists the claim of the applicant on the ground that his Service Book shows his date of birth is 1.8.1937 and the applicant put his signature as a token of acceptance and this was also confirmed by the applicant when renewed in 1995 by putting his signature and thumb impression thereon. Mr. Sharma further submits that while the applicant himself having



confirmed it by putting signature the question of mistake does not arise at all and the same cannot be rectified at the fag end of his service. In reply, Mr. Chanda submits that the date of birth 1.8.1937 instead of 1.8.1938 was inadvertantly entered and the same was not known to the applicant before 26.6.1995. Action of the respondents clearly indicstes that the respondents also were not aware of the actual date of birth otherwise according to Mr. Chanda applicant ought to have been retired from service on 1.8.1995 itself but he was allowed to continue some more time. Mr.Chanda has emphasized in his arguments that in the Service Book date of birth was entered after few years of joining i.e. sometime in 1965. Similar mistake was also committed in the subsequent date when it was updated in the year 1995. According to Mr. Chanda the entries were made by some other person other than the applicant and the applicant only put his signature and thumb impression. Mr. Sharma also admits that from the records it is seen that so far as the entry of date of birth is concerned this was entered by person other than the applicant. The Original Matriculation Certificate has been produced before us. We have perused the same and from the Original Matriculation Certificate as well as on Admit Card it clearly shows that the applicant was born on 1.8.1938 and not on 1.8.1937. Besides his Matriculation Certificate the applicant had submitted an application for entry into service where he had shown his date of birth as 1.8.1938 and not 1.8.1937. Records have also been produced before us. We have perused the records. We find that the applicant's date of birth is clearly written as 1.8.1938 in the application. There is a clear



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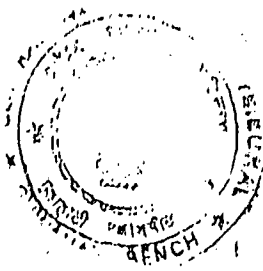
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mention that Matriculation Certificate was also enclosed alongwith application and again produced the same on demand of the authority.

6. It is an established law that change of date of birth cannot be claimed at a belated stage but when there is genuine papers available, the court should not hesitate to change the date of birth on the basis of genuine documents. In respect of date of birth normally the Matriculation Certificate should be accepted. In this connection Mr. Chanda has drawn our attention to a decision of the Apex Court in the case of Commissioner of Police, Bombay and Another Vs. Bhagawan V. Lahane, reported in 1:97 (1) SCC 249 where the Apex Court held thus :



"The respondent admittedly filed his Secondary School Leaving Certificate at the time of entry into service on the basis of which his date of birth was reflected in the service register as 12.11.1948. The respondent ought to have produced the reliable material to show that the date of birth mentioned in the School Leaving Certificate was incorrect. No such material was produced by him. The extract from the birth register produced by him along with his representation being inconsistent with the School Leaving Certificate produced by him earlier, he ought to have proved to the satisfaction of the competent authority that he was given a name before or soon after his birth and that his name was entered in the birth register at the time of registration of his birth. Ordinarily, a child is not given a name before birth and in the entry in the birth register only sex, viz., male or female would be mentioned. After naming ceremony the name is given.....
Admittedly, the School Leaving Certificate was produced by the respondent and the entry in the service-book was made on the basis of the date of birth mentioned therein. As he failed to show that the said entry was made due to want of care on the part of some other person or that it was an obvious clerical error,"

From this, it is clear that date of birth shown in the School Leaving Certificate should be accepted as an authentic document. In the instant application, the

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Matriculation certificate produced by the applicant shows date of birth is clearly written as 1.8.1938 and from the facts and circumstances of the case the date of birth shall be as 1.8.1938 which is advertantly entered in the service book of the applicant as 1.8.1937. From his Matriculation certificate and admit card it is clear that he was born on 1.8.1938 and not on 1.8.1937 and we are inclined to accept the submission of Mr. Chanda, and hold that the applicant was born on 1.8.1938 and his date of superannuation 31.7.1996 but the applicant was allowed to work upto 31.8.95. Therefore we direct the respondents to pay his dues accordingly and he shall be allowed to draw consequential service benefits including pensionary benefits. Accordingly we allow the application and set aside Annexure-8 order dated 31.8.95.

Considering the facts and circumstances of the case, however, we make no order as to costs.

Sd/- VICE-CHAIRMAN

Sd/- MEMBER (ADMIN)



Certified to be true Cop.

प्रमाणित प्रतिलिपि

(Signature)

25/9/96

Section Officer (J)

आयुक्त अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
द्वितीय प्रशासनिक अड्डा
Gowahati Bench, Guwahati
असम (आसम), भारत-781005

(Handwritten initials)

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 414 of 2000.

Date of Order : This the 7th Day of March, 2001.

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

Shri Lakshya Dhar Bania,
son of late Rajat Ch. Bania,
Sr. Section Supervisor,
Commercial Section,
Office of the General Manager Telecom,
Kamrup Telecom District,
Guwahati-7. . . . Applicant.

By Advocate Shri M.Chanda.

- Versus -

1. Union of India
represented through the Secretary,
Department of Telecom,
Ministry of Communications,
New Delhi.
2. The Chief General Manager,
Assam Telecom Circle,
Guwahati-7.
3. The General Manager,
Kamrup Telecom District,
Guwahati-7.
4. Divisional Engineer (Admn.)
Office of the G.M.T.,
Kamrup Telecom District,
Guwahati-7.
5. The Sub-Divisional Engineer (Admn.)
Kamrup Telecom District,
Guwahati-7. . . . Respondents.

By Sri A. Deb Roy, Sr.C.G.S.C.

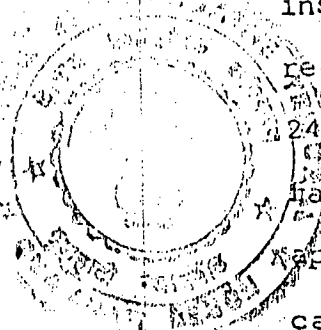
ORDER

CHOWDHURY J.(V.C)

This is second round of the litigation pertaining to the amendment of an obvious error that crept in recording the date of birth. The applicant entered in the service of the respondents in the month of November 1963. His date of birth was recorded on the basis of a Matriculation Certificate. As per the Matriculation Certificate dated 29th July 1959

*Attested
for
Advocate*

the age of the applicant was 17(seventeen) years 8 (Eight) months on the first of March 1959. The respondents in the service book recorded his date of birth as 13.11.1940 based on the self same Matriculation certificate. Apparently there is a manifest arithmetical error in recording the date of birth from the self same certificate. If a person was 17 years 8 months of age on 1.3.1959 the actual date of birth of the said person would be 1.7.41 and not 13.11.40. It is a patent error in computing the date of birth. The applicant pointed out to the respondents that was not corrected. For the simple purpose he had to move the Tribunal by an Original Application and by order dated 10.11.2000 in O.A.152/2000 the Tribunal instead of correcting the same directed the respondents to re-consider the same. The respondents, but its order dated 24.11.2000 did not correct the manifest error apparent on the face of the record, instead pointed out to the conduct of the applicant in not seeking the correction in due time. It is a case of simple clerical mistake and it ought to have been corrected by the respondents themselves instead of waiting to the applicant to point out the same. It is not a case of alteration or substitution of age. It is a case of correction of error apparent on the face of the record. The reasons assigned by the Divisional Engineer for rejecting his representation are apparently unsustainable. A public authority while discharging public duties are not only to act bonafide, honestly and ^{conscientiously} ~~conscientiously~~ but it is also to act justly, fairly and rationally. An obvious error should not have been just scornfully cold shouldered on impertinent considerations. It is indeed a sad account of rationing of justice. The very calculation of the date of birth from the certificate is vitiated by arithmetical error. To ~~be~~ is human. To accept the error should not be embarrassing. As observed by Jackson Robert H in

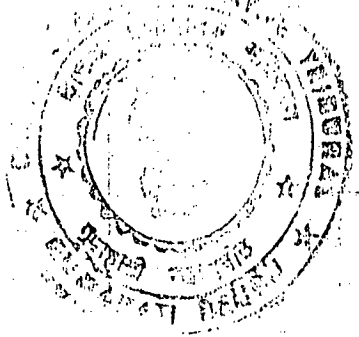


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United States vs. Bryan 33 US 323. "Of course it is embarrassing to confess a blunder; but it may prove more embarrassing to adhere to it." Human error should not be allowed to frustrate the cause of justice. "Fiat Justitia ruat coelum" - Let Justice be done though heaven may fall. In the circumstances the respondents are directed to correct the service record and rectify his date of birth as 1.7.1941 instead of 13.11.1940. The respondents are accordingly directed to take the remedial measure and correct his age of superannuation accordingly on the basis of the date of birth as 1.7.1941 and not as 13.11.1940 and provide ^{the} service benefit^s as per law on the basis of his date of birth as 1st of July 1941.

The application is allowed with costs.



Sd/VICE CHAIRMAN

Certified to be true Copy

প্রমাণিত প্রতিলিপি

[Handwritten Signature]
16/3/01

Section Officer (J)

সহকারী সচিব (জ)
Central Administrative Tribunal

গুৱাহাটী বেঞ্চ, গুৱাহাটী-০

পদবিঃ সহকারী সচিব (জ)

[Handwritten Signature]
16/3/2001

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16/3/2001

Sr. Accounts Officer (SBP)
O/o the C.G. M. T. Assam Circle
Ujubari, Guwahati-781 007.