

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)


01/11/14

(5)

FORM NO. 4
(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 48/05
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicants: Mr. Khalilullah

Respondents M. O. I. Fors.

Advocates for the Applicant Absentia

Advocates of the Respondents Adv. Case. M. U. Ahmed

Notes of the Registry Date 24.02.2005 Order of the Tribunal

Application No. 116386/67
Dated 5.2.05

23/2/05
Dy. Registrar
Ani

Steps taken with
envelops.

Ani

Notice & order
sent to D/Section
for issuing to
resp. Nos. 1 to 4
by regd. A/D post.

25/2/05 Notice duly served
on resp. Nos. 2, 3, 4.

Present : The Hon'ble Mr. K.V. Prahladan, Member (A).

Issue notice to show cause as to why the application shall not be admitted.

List on 18.3.2005 for admission.

K.V. Prahladan
Member (A)

31.3.2005

Present : The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents prays for time for filing written statement. Post on 3.5.2005. Written statement, if any, in the meantime.

G. Sivarajan
Vice-Chairman

mb

6.5.2005

The application is admitted, call for the records, returnable within four weeks. List on 3.6.2005 for orders.

Written statement to be filed in the meantime.

Notice duly
Served on
resp-No-1 to 4.

6/4/05.

5-5-05

also w/s has been 8/12/05 3.6.2005

bb

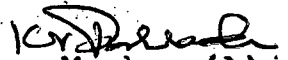
Heard Mr. M.U. Ahmed, learned
Addl. C.G.S.C. for the respondents.
Orders reserved.


Member

2-6-05

No w/s has been 8/12/05

mb


Member (A)

12.7.2005

Judgment pronounced in open Court,
kept in separate sheets.

The O.A. is dismissed in terms of
the order. No costs.


Member

~~XXXXXXXXXX~~

bb

Printed
MUA 13/7/05
Addl. C.G.S.C.

14.7.05

Copy of the judgment
has been sent to the
office for printing the
same to the applicant
by post.

js

CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH.

O.A. No. 48/2005.

DATE OF DECISION: 12.7.2005

Md. Khalilullah

APPLICANT(S)

Heard in absentia

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

U. O. I. & Ors.

RESPONDENT(S)

Mr. M. U. Ahmed, Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR K.V.PRAHLADAN, ADMINISTRATIVE MEMBER

- ND
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?
- bnl

Judgment delivered by Hon'ble Administrative Member.

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 48 of 2005.

Date of Order: This, the 12th Day of July, 2005.

The Hon'ble Mr. K.V.Prahladan, Administrative Member.

Shri Khalilullah,
Son of Shri M V Abdul Halim,
Vill & BPO : Mayang Imphal Bangoon,
Dist. Imphal West, State Manipur.

... Applicant

Heard in absentia

- Versus -

1. Union of India
represented by the Postmaster General,
N.E.Circle, Shillong-110001.
2. The Director of Postal Services,
Manipur, Imphal - 795 001.
3. The Supdt. of Post Offices,
Manipur Division, Imphal-795001.
4. The Asstt. Post Master (A/Cs),
Imphal Head Post Office - 795001.

... Respondents

By Advocate Mr M.U.Ahmed, Addl.C.G.S.C.

ORDER

K.V.PRAHLADAN, MEMBER(A)

End

The applicant was originally employed as an Extra Departmental Packer at Mayang, Imphal Post office in 1972. He was appointed as a Group D employee in the department of Post in Manipur Postal Division with effect from 7.8.1981. The applicant claims that at the time of appointment to the Group D post he submitted his original school certificate as valid documentary proof of his age and educational qualification bearing Sl.No. 91 dated 24.5.81. As per this certificate the applicant was 11 years old on 29.2.64. The applicant

has claimed that his date of birth as per the school certificate is 1.3.1953. The applicant has stated that his date of birth was wrongly shown as 10.8.43 in the service book. He came to know of this only in the year 1998 "initially in the Divisional Gradation List of Group officials published vide Superintendent of Post Offices, Manipur Division, Imphal Memo No.B-6/G.L/Gr.'D'/Corr dated 28.09.1994 circulated in May/1995 and once again in the 'Divisional Gradation List of Group-D Officials in Manipur Division as on 01.01.1998' published vide Director of Postal Services, Manipur, Imphal vide Memo No.B-6/GL/FR'D'/Corr dated 15.04.1998 and circulated in October/1998." The applicant sent a representation dated 5.10.98 addressed to the Postmaster, Imphal which was replied after a long delay. He again represented to Postmaster General, N.E.Circle, Shillong on 1.2.99 which was rejected vide letter dated 5.8.2003. He again sent two representations after retirement on 21.8.03 and 21.6.04 to the Postmaster General, Shillong enclosing many of the documents he has submitted at the time of appointment as Group 'D'. The above representations have not been replied to by the Postmaster General. The applicant claimed that as per SR 202 the Head of office should initiate action to show the service book to the concerned Government servant every year and obtain his signature in token of his having inspected the service book. This was not done by the head of office. The applicant has prayed that the representation dated 21.8.03 should be disposed of by the Postmaster General with a speaking order alongwith all the documents sought for in the above letter.

2. The respondents claim that the applicant was appointed to the Group D cadre with effect from 18.8.1981. In his service book his date

of birth was recorded as 10-08-1943. This was shown to the applicant and in token of his verification he put his signature in column 12 which was duly attested by Sub-Divisional Inspector of Post Offices Ukhrul Sub division on 13.4.1982. The date of birth of the applicant was recorded as 10.8.1943 in the service book on the basis of available sources and from the statement of the applicant. The applicant sent a representation to the Chief Postmaster General, Shillong dated 1.2.99 that his date of birth was wrongly recorded as 10.8.1943 instead of 1.3.1953. The application sent by the applicant dated 1.2.99 was rejected and not replied. His representation dated 21.8.03 was rejected vide letter dated 8.12.04 by the Chief Postmaster General, Shillong.

3. Heard Mr.M.U.Ahmed, learned Addl.C.G.S.C. for the respondents and went through all the materials produced before the Tribunal. The applicant claims that when he was appointed as ED-Packer at Mayang, Imphal in 1972 the school certificate furnished at the time of appointment as ED-packer his date of birth was 1.3.1953 (Annexure A-8 page 23). He is puzzled by the fact that his date of birth had been recorded as 1.3.43 in his service book at the Manipur Postal division, where he joined as a Group D on 7.8.81. In para 4.2 of the affidavit the applicant claims that he handed over the original of the school certificate dated 24.5.81 to the respondents. Yet he has not enclosed any record of his request to the respondents to give him an attested copy of his original school certificate. Instead he has produced a duplicate certificate belatedly dated 24.5.81, seventeen years after he left his school in 1964. The applicant has offered no explanation for getting a duplicate certificate dated 24.5.81, when according to his own claim he came to know of what he claims to be wrong entry of his date of birth in May 1995 (Annexure A-9, page 25). The applicant who is quite literate and passed literacy test, as per his claim in para 4.1 of

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the affidavit, would not have signed his date of birth as 1.3.43, in his service book and got it attested by the Sub Divisional Inspector of Post Offices, Ukhrul Sub Division on 13.4.82. He did this with his eyes wide open. The petitioner claims that he came to know about the wrong entry of his date of birth in May 1995 (Annexure A-9, page 25). Yet his first representation, as per records furnished by him, is dated 1.2.99, after a lapse of four years. The applicant has claimed in his affidavit that the head of office never showed him the service book which is a requirement under SR 202. Though he was shown his service book only once, on 10.1.2002 however, he has not enclosed any documents to show that he ever made a request to the respondents to show him the service book. Therefore, more than a year after retirement he cannot now turned and complaint that his service book was shown only once.

4. The Apex Court in Secretary and Commissioner, Home Department and others vs. R.Kirubakaran, [(1994) 26 ATC 828] has observed that :

OW
"An application for correction of date of birth should not be dealt with by the tribunal or the High Court keeping in view only the public servant concerned. It need not be pointed out that any such direction for correction of the date of birth of the public servant concerned has a chain reaction, inasmuch as others waiting for years, below him for their respective promotions are affected in this process. Some are likely to suffer irreparable injury, inasmuch as, because of the correction of the date of birth, the officer concerned, continues in office, in some cases for years, within which time many officers who are below him in seniority waiting for their promotion, may lose their promotions for ever. Cases are not unknown when a person accepts appointment keeping in view the date of retirement of his immediate senior. According to us, this is an important aspect, which

cannot be lost sight of by the court or the tribunal while examining the grievance of a public servant in respect of correction of his date of birth. As such, unless a clear case, on the basis of materials which can be held to be conclusive in nature, is made out by the respondent, the court or the tribunal should not issue a direction, on the basis of materials which make such claim only plausible. Before any such direction is issued, the court or the tribunal must be fully satisfied that there has been real injustice to the person concerned and his claim for correction of date of birth has been made in accordance with the procedure prescribed and within the time fixed by any rule or order. If no rule or order has been framed or made, prescribing the period within which such application has to be filed, then such application must be filed within the time, which can be held to be reasonable. The applicant has to produce the evidence in support of such claim, which may amount to irrefutable proof relating to his date of birth. Whenever any such question arises, the onus is on the applicant, to prove the wrong recording of his date of birth, in his service book. In many cases it is a part of the strategy on the part of such public servants to approach the court or the tribunal on the eve of their retirement, questioning the correctness of the entries in respect of their dates of birth in the service books. By this process, it has come to the notice of this Court that in many cases, even if ultimately their applications are dismissed, by virtue of interim orders, they continue for months, after the date of superannuation. The Court or the Tribunal must, therefore, be slow in granting an interim relief for continuation in service, unless prima facie evidence of unimpeachable character is produced because if the public servant succeeds, he can always be compensated, but if he fails, he would have enjoyed undeserved benefit of extended service and merely caused injustice to his immediate junior."

In State of T.N vs. T.V.Venugopalan, (1994) 28 ATC 294, the Apex Court has observed that :

"This Court has, repeatedly, been holding that the inordinate delay in making the application is itself a ground for rejecting the correcting of date of birth. The government servant

"This Court has, repeatedly, been holding that the inordinate delay in making the application is itself a ground for rejecting the correcting of date of birth. The government servant having declared his date of birth as entered in the service register to be correct, would not be permitted at the fag end of his service career to raise a dispute as regards the correctness of the entries in the service register. It is common phenomenon that just before superannuation, an application would be made to the Tribunal or court just to gain time to continue in service and the Tribunal or courts are unfortunately unduly liberal in entertaining and allowing the government employee or public employees to remain in office, which is adding an impetus to resort to the fabrication of the record and place reliance thereon and seek the authority to correct it. When rejected, on grounds of technicalities, question them and remain in office till the period claimed for, gets expired. This case is one such stark instance. Accordingly, in our view, the Tribunal has grossly erred in showing overindulgence in granting the reliefs even trenching beyond its powers of allowing him to remain in office for two years after his date of superannuation even as per his own case and given all conceivable directions beneficial to the employee. It is, therefore, a case of the grossest error of law committed by the Tribunal which cannot be countenanced and cannot be sustained on any ground."

5. In the present application, the applicant has approached the Tribunal nearly two years after he has retired. On evaluating the claim of the applicant on the basis of the laws laid down by the Apex Court cited above it is crystal clear that the applicant's case does not have even an iota of merit in it. It is devoid of any merit whatsoever. The application is therefore dismissed. No order as to costs.

K.V. Prahladan
(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER

Recd in
court on 30-05
by
3-6-05
CP.

In O.A No 48/2005/318 Dated 01-03-05

Filed by

3/6/05
Md. Uddin Ahmed, M.A.B.Sc., LL.B.
Advl. Central Govt. Standing Counsel
Gauhati Bench.

Md Khalilullah - Applicant Versus 1. The Postmaster General
N.E Circle, Shillong - 793001

2. The Director, Postal Services
Manipur Division Imphal- 795001

3. The Supdt. Of Post Offices
Manipur Division Imphal- 795001

Reply by way of affidavit of Shri Ksh Tomba Singh Dy Supdt. Of Post
Offices Manipur Division Imphal Respondent No 3

I do hereby solemnly affirm and declare as under :-

1. The petitioner in his OA submitted the descriptions of the case in Paras from 1 to 12 with many sub paras there in and I, without attending para by para answer of the OA, submitted the affidavit in defence as under.

2. Md Khaliullah (Petitioner) formerly ED Packer Mayang Imphal Sub Post Office was promoted to Group 'D' Cadre Vide Supdt. Post Offices Manipur Division Imphal

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Memo No. B-5/Exam/ Gr-D/81 dated 12-06-1981 and accordingly he was appointed in the cadre Group-D with effect from 18-08-1981. A service book in respect of Md Khaliullah (Petitioner) was prepared. In the first page of service record, the particulars of Bio-Data of Md Khaliullah were recorded. Among other particulars in the service book the date of birth was recorded in the column 6 as 10-08-1943. The particulars recorded in the first page of Service Book was shown to Md Khaliullah (Petitioner) and in token of his verification he put his signature at column 12 duly attested by Sub Divisional Inspector of Post Offices Ukhul Sub division, Ukhul on 13-04-1982.

3. As per the principles of provisions of Rules, Entry of Date of Birth in the service records are made the actual date or as summed date of birth determined will be recorded in the service book or other service records. Once entered it cannot be altered, without prior order of Head of Department except in the case of clerical error and request for subsequent alteration of Date of Birth should be made within five years of the entry in the Service Book (Rule -281 of P&T Financial Hand Book Vol - 1 refers)

4. Md Khaliullah (Petitioner) cannot denied that his date of birth is not 10-08-1943 since the same was verified himself in the first page of the service book, which was also authenticated with his signature followed by attestation of SDIPOs Ukhul. But Md Khaliullah (Petitioner), after thought decided to change his date of birth by producing school certificate and affidavit and made request to the authority stated to be in the month of October/98 (after a gap of 17 years).

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5. Alteration of date of birth is a frequent asked problem in various Departments. Many such belated claims for alteration in date of birth already rejected by the Apex Court judgment and therefore accordingly the Supdt. Of Post Offices Manipur Division Imphal Respondent No 3 vide his letter NoB-2/Postman/Gr'D'/Corr dated 30-11-98 intimated Md Khaliullah that alteration of date of birth cannot be entertained as the case is treated as Belated claim.

6. Md Khaliullah (Petitioner), after thought (as per Annexure A/8) made an application to Shri S. Samanta, Chief Postmaster General N.E Circle, Shillong dated 01-02-99 that his date of birth was wrongly recorded as 1-3-43 instead of 1-3-53. Md Khaliullah (Petitioner) alleged that in spite of Govt order at Annexure A/2 the Chief Postmaster General N.E Circle Shillong did not reply even after a lapse of 54 months. In reply it may be mentioned that the application of Md Khaliullah (Petitioner), dated 01-02-99 was not within prescribed time limit for claim and it is more than 18 years old, which is subject to the rejection as belated claim. Therefore the chief Postmaster General N.E Circle Shillong on principle did not felt necessary to give answer to Md Khaliullah.

7. In response to the representation dated 21-08-03 Annexure A/9 of Md Khaliullah addressed to Chief Postmaster General N.E Circle Shillong, Respondent No. 1 the Supdt. Of Post offices Manipur Division Imphal Respondent No 3 took a lenient view on the representation of Md Khaliullah and accordingly the Chief Postmaster General NE Circle Shillong was addressed vide No. B-2/Md Khaliullah dated 06-10-04 and dated 30-11-

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04 for consideration of his representation. But the Chief Postmaster General N.E Circle Shillong Respondent No 1 vide his letter No Staff/153-1/91 dated 08-12-04 straightway rejected, because of the claim is not within the principle of provisions of Rules as furnished above at para 2 and treated it as **belated claim**.

8. **Finally** the petitioner Md Khaliullah in his OA at para 8 (i). Prayed the Hon'ble Tribunal that respondent No 1 viz The Chief Postmaster General N.E Circle Shillong should be directed to dispose of the petitioner's representation dated 21-08-2003 with a speaking order. In this connection it is clarified that as per the foregoing para 7 above the respondent No. 1 already rejected the representation dated 21-08-2003 of the petitioner and hence issuing another speaking order on the belated claim does not arise.

9. Further the petitioner Md Khaliullah in his OA at para 8. (ii). Prayed the Hon'ble Tribunal that the Respondent No.1 may be directed to supply all the copies of documents required in the applicant's representation dated 21-08-2003. In this connection it is clarified that the Respondent No 1 is not appropriate custodian of the documents as asked for in the representation dated 21-08-03 at para 5 (a), (b) & (c). in Annexure A/9

10. In response to representation dated 21-08-03 at Para 5. (a) of Annexure A/9, it is clarified that the petitioner made his representation to supply copy of application for appearing in the literacy test for promotion to Group-D cadre after a gape of 23 years from the date of appointment. The application as asked for is a temporary document, which has no prescribed rules for preservation or any instruction to preserve the

document for certain period. If the petitioner happened to be submitted application for appearing literacy test in the year 1980/1981 the same already waived out.

11. In response to the representation dated 21-08-03 at Para 5 (b) of Annexure A/9, it is clarified that the date of birth of Md Khaliullah was recorded by the Sub Divisional Inspector Ukhrul Sub Division in the first page of Service book at column No 6 on the basis of available sources and from the statement of Md Khaliullah. The recording of date of birth of Md Khaliullah was made in absence of Educational qualification certificate.

12. In response to the representation dated 21-08-03 at Para 5. (c) of Annexure A/9, it is clarified the Respondent No. 3 is ready to supply the copy of Service Book of Md Khaliullah to the petitioner if the Hon'ble Tribunal directs to do so

13. In response to the representation dated 21-08-03 at Para 5 (d) of Annexure A/9, it is clarified that the delay in disposing of representation of the petitioner dated 01-02-1999 by the Respondent No 1 taken due to the fact that the claim was belated claim, even though the matter was inquired thoroughly with the respondent No. 3 by way of official correspondences to find out any solution to give due consideration to the petitioner. But the existing provisions of rules do not permit to consider his representation on the Principle that the claim is a belated claim.


(Shri Keh Tomba Singh)

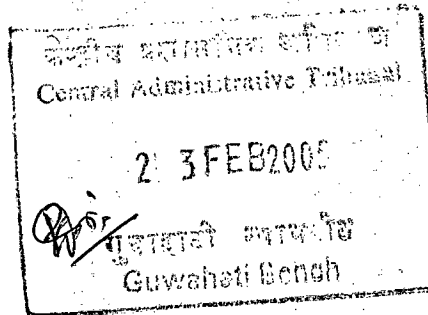
DEPONENT
(KSH. TOMBA SINGH)
उप अधीक्षक डाकघर, मणिपुर मण्डल इम्फाल
Dy. Superintendent of Post Offices
Manipur Division, Imphal-795001

VERIFICATION :

Verified that the contents of my above affidavit are true and correct on the basis of official record no part of it is false and nothing has been kept concealed there from.


(Shri Ksh. Tomba Singh)

DEPONENT
(KSH. TOMBA SINGH)
उप अधिक्षक डाकघर, मणिपुर मण्डल इम्फाल
Dy. Superintendent of Post Offices
Manipur Division, Imphal-795001



COMPILATION No. 1

1. Original Application.

[Note: The application is made against non-disposal of applicant's representation dated 21.08.2003 by the 'Representing Respondent No.1' in accordance with G.I., Dept of Per & Trg O.M No.28034/6/2002-Estt.(A) dated 11-01-2002 (ANNEXURE-A/2); and also against **non-supply of certain documents and copy of 'Service Book'** by the Respondents in violation of G.I., M.F., O.M No.F.12 (6)-E.IV/54 dated 31st January 1955 and No.F.12 (16)-E.IV/60 dated 09th May 1961 (ANNEXURE-A/1). Thus, the application is not made against any particular order, but against the arbitrary acts of the above Respondents in violation of govt instructions, rule of law and natural justice.]

APPENDIX - A

[FORM - I]

[See Rule 4]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

ORIGINAL APPLICATION No: _____ of 2005.
APPLICATION UNDER SECTION-19 OF THE A.T ACT 1985

Shri Md Khalilullah

..... Applicant.

- VERSUS -

Union of India & Others.

..... Respondents.

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1	Application		01-15
2	Extract of G.I., M.F., O.M No.F.12 (6)-E.IV/54 dated 31 st January 1955 and No.F.12 (16)-E.IV/60 dated 09 th May 1961	ANNEXURE-A/1	16
3	Extract of G.I., Dept of Per & Trg., O.M No.28034/6/2302-Estt.(A) dated 11-01-2002	ANNEXURE-A/2	17
4	Copy of order No.B-2/Md Khalilullah dated 20 th Aug 2003	ANNEXURE-A/3	18
5	Extract of G.I., M.F., O.M No.3 (2)-E.IV(A) dated 14 th March 1976	ANNEXURE-A/4	19
6	Extract of G.I., Dept of Per & A.R O.M No. 28034/35/76-Estt.(A) dated 19 th January 1977	ANNEXURE-A/5	20
7	Copy of Schcol Certificate, bearing Sl.No.91 dated 24.5.1981, submitted by the applicant at the time of appointment in regular departmental Group-D cadre	ANNEXURE-A/6	21
8	Extract of 'Supplementary Rule-202' of F.R & S.R Part-I	ANNEXURE-A/7	22
9	Copy of Applicant's representation dated 1.2.99	ANNEXURE-A/8	23-24
10	Copy of applicant's representation dated 21 st Aug 2003	ANNEXURE-A/9	25-27
11	Copy of applicant's Representation dated 25 th June 2004	ANNEXURE-A/10	28-29

Date : 18.02.2005

Md. Khalilullah
Signature of the applicant

Place: Imphal

For use in Tribunal's office

Date of filing :

Or

Date of Receipt by post :

Registration No. :

Signature
For Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORIGINAL APPLICATION No: of 2005.

Shri Md Khalilullah, Aged about 52-years
S/o Shri M V Abdul Halim,
Vill & BPO : Mayang Imphal Bangoon,
PO : Mayang Imphal S.O
Distt: Imphal West State: Manipur

..... Applicant.

- Versus -

1. Union of India
[Represented by: -
The Post Master General,
N.E - Circle, Shillong - 110 001.]
2. The Director Postal Services,
Manipur, Imphal - 795 001.
3. The Supdt of Post Offices,
Manipur Division, Imphal - 795 001.
4. The Asstt Post Master(A/Cs),
Imphal Head Post Office - 795 001.

..... Respondents.

In the matter of:

Non supply of copy of service book in violation of G.I., M.F., O.M No.F.12 (6)-E.IV/54 dated 31st January 1955 and No.F.12 (16)-E.IV/60 dated 09th May 1961; and thereby disabling the applicant to approach the Hon'ble CAT against arbitrary change of date of birth of the applicant by the Respondent No.4 as against the principle of law laid down by the Hon'ble Supreme Court in "State of Orissa Vs Dr (Miss) Binapani Dei & Others [1967 AIR 1269]" .

- AND -

In the matter of:

Failure to dispose of the applicant's representation dated 21st Aug 2003 in accordance with G.I., Dept of Per & Trg O.M No.28034/6/2002-Estt.(A) dated 11-01-2002.

- AND -

In the matter of:

Forceful retirement from service, on the basis of date of birth wrongly recorded in the service records, in violation of G.I., M.F., O.M. No.3 (2)-E.IV(A) dated 14th March 1976 read-with G.I., Dept of Per & A.R O.M No.28034/35/76-Estt.(A) dated 19th January 1977; and without enquiring the facts and without showing the basis on which the date of birth was recorded in the service records.

- AND -

In the matter of:

Wrong recording of date of birth in the service records without any basis and by willfully ignoring the age-proof certificate submitted by the applicant at the time of entry into service in violation of G.I., M.F., O.M. No.3 (2)-E.IV(A) dated 14th March 1976 read-with G.I., Dept of Per & A.R O.M No.28034/35/76-Estt.(A) dated 19th January 1977.

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

The application is made against the following arbitrary acts of the above Respondents:

- (i) The applicant has not been supplied with a certified copy of his service book, in violation of G.I., M.F., O.M No.F.12 (6)-E.IV/54 dated 31st January 1955 and No.F.12 (16)-E.IV/60 dated 09th May 1961, although the applicant has submitted a representation dated 21st August 2003 to the above representing Respondent No.1 through the Respondent No.2 duly expressing willingness to pay the prescribed copying fee;
- (ii) The above 'representing Respondent No.1' has failed to dispose of the applicant's representation dated 21st Aug 2003 in violation of G.I., Dept of Per & Trg O.M No. O.M No.28034/6/2002-Estt.(A) dated 11-01-2002;
- (iii) The above Respondent No.2 has forcefully and compulsorily retired the applicant from service vide order No.B-2/Md Khalilullah dated 20th Aug 2003 on the basis of date of birth wrongly recorded in the service records without enquiring the facts and without showing the documentary evidence on the basis of which the date of birth was recorded in the service book; and
- (iv) The above Respondent No.3 & 4, recorded a wrong/false date of birth in the service records of the applicant, ignoring the date of birth recorded in the age-proof certificate submitted by the applicant at the time of entry into service in violation of G.I.,

M.F., O.M. No.3 (2)-E.IV(A) dated 14th March 1976 read-
with G.I., Dept of Per & A.R O.M No.28034/35/76-Estt.(A)
dated 19th January 1977.

- Extract of G.I., M.F., O.M No.F.12 (6)-E.IV/54 dated 31st January 1955 and No.F.12 (16)-E.IV/60 dated 09th May 1961 is attached as ANNEXURE-A/1.
- Extract of G.I., Dept of Per & Trg O.M No. O.M No.28034/6/2002-Estt.(A) dated 11-01-2002 is attached as ANNEXURE-A/2.
- Copy of order No.B-2/Md Khalilullah dated 20th Aug 2003 is attached as ANNEXURE-A/3.
- Extracts of G.I., M.F., O.M. No.3 (2)-E.IV(A) dated 14th March 1976 and G.I., Dept of Per & A.R O.M No.28034/35/76-Estt.(A) dated 19th January 1977 are attached as ANNEXURE-A/4 & ANNEXURE-A/5 respectively.

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject-matter of the application in which the applicant wants redressal is within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION:

The applicant further declares that the application is within the limitation period prescribed in Section-21 of the Administrative Tribunals Act, 1985.

The cause of action arose after the above Respondent No.2 issued No.B-2/Md Khalilullah dated 20th Aug 2003; and the present application is based on the applicant's representation dated 21st Aug 2003 against the

order No.B-2/Md Khalilullah dated 20th Aug 2003. Thus, the application is within the limitation prescribed in Section-21(b) of Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE:

- 4.1. The applicant was appointed as regular departmental employee in Group-D cadre in the Department of Posts in Manipur Postal Division with effect from 7.8.1981. Prior to his appointment in Group-D cadre, the applicant was employed as Extra Departmental Agent as Extra Departmental Packer at Mayang Imphal Sub Post Office. It is submitted for the kind information of the Hon'ble Tribunal that the appointment of Extra Departmental Agents to regular departmental Group-D cadre was done only after passing a prescribed mandatory literacy test. Thus, the applicant was appointed in the Group-D cadre after passing the literacy test held in 1980-81.
- 4.2. The applicant, at the time of appointment in the Group-D cadre, submitted the original school certificate as valid documentary proof for the purpose of his age and educational qualification. As per the original school certificate submitted by the applicant, bearing Sl.No.91 dated 24.5.1981, issued by the Head Master of Bangoon Junior Madrassa, Mayang Imphal Bangoon, the applicant was 11(Eleven) years old as on 29th Feb 1964 when the applicant passed the Class-VI promotion examination to Class-VII. Thus,

the date of birth of the applicant, as per the said school certificate is 01.03.1953.

- Copy of School Certificate, bearing Sl.No.91 dated 24.5.1981, submitted by the applicant at the time of appointment in regular departmental Group-D cadre is attached as ANNEXURE-A/6.

- 4.3. The appointment of the applicant in the Group-D cadre was done after completion of all pre-appointment formalities such as (i) satisfactory verification of character and antecedents, (ii) Medical fitness, (iii) satisfactory proof of age and educational qualifications etc.
- 4.4. After appointment in the Group-D cadre, the applicant was working in various remote places in Manipur such as Ukhrul Sub-Division, Churachandpur Sub-Division etc during the period from 07.08.1981 to 01.11.1989. Thus the applicant had been working in remote places during the first 8(Eight) years of his service. During his entire service, the applicant was never shown the entries in his service book for inspection except, for only once, on 10.01.2002. Thus, the provision of S.R-202 of F.R. & S.R Part-I, which necessitates the Head of Office to facilitate the Govt servant concerned to inspect his service book once in every year, was not at all complied in the case of the applicant. It is also submitted for the kind information of the Hon'ble Tribunal that the applicant was allowed to see his service book only once in his entire service career [that is also, 20(Twenty) years after the entry into service],

after the applicant's signature was taken in the first page of the blank service book sometimes in 1982. Thus, the Respondents 2 to 4 above did not comply the requirement of 'Supplementary Rule-202' of F.R. & S.R Part-I and the applicant had been kept completely dark about the wrong date of birth entered in his service record/service book.

- Extract of 'Supplementary Rule-202' of F.R & S.R Part-I is attached as ANNEXURE-A/7.

4.5. The applicant came to know about the wrong recording of his date of birth in his service records/service book only in the year 1998 when his date of birth was repeatedly wrongly shown as 10.08.1943 instead of his original date of birth of 01.03.1953 initially in the 'Divisional Gradation List of Group-D officials' published vide Supdt of Post Offices, Manipur Division, Imphal Memo.No.B-6/GL/Gr.'D'/Corr dated 28.09.1994 circulated in May/1995 and once again in the 'Divisional Gradation List of Group-D Officials in Manipur Division as on 01.01.1998' published vide Director Postal Services, Manipur, Imphal vide Memo.No.B-6/GL/FR 'D'/Corr dated 15.04.1998 and circulated in October/1998. The applicant therefore represented to the Post Master, Imphal HPO under-whom the Respondent No.4 is working for making necessary correction/rectification of the wrong date of birth with the correct date of birth. But the said representation of the applicant dated 05.10.98 addressed to the Post Master, Imphal

HPO did not yield any fruitful result. Therefore, the applicant represented the matter to the 'representing Respondent No.1' viz the Post Master General, North Eastern Circle, Shillong for necessary action vide a representation-dated 1.2.1999. But, the representation of the applicant was not attended by the 'representing Respondent No.1' for more than 54(Fifty four) months.

- Copy of Applicant's representation dated 1.2.99 is attached as ANNEXURE-A/8.

4.6. The applicant was finally intimated vide letter No.B-2/Md Khalilullah dated 20.08.2003 from the above Respondent No.2 that the above representing Respondent No.1 had rejected the applicant's representation-dated 1.2.99 vide letter No.Staff/153-1/91 dated 05th Aug 2003. On receipt of the said intimation, the applicant submitted a representation dated 21.08.2003 to the above 'representing Respondent No.1' in which the applicant had prayed that:

- (i) The applicant may be supplied with the copies of the following documents so that the applicant could be able to take up his case before an appropriate legal forum [viz: The Hon'ble CAT];
- (a) Copy of application submitted by the applicant in the year 1980/1981 for appearing in the literary test for promotion to Group-D cadre;

- (b) Copy of age proof & educational qualification certificate submitted by the applicant at the time of initial appointment on the basis of which the department claims to have recorded the date of birth in the service book;
- (c) Copy of service book of the petitioner. [As per the existing rules, copy of service book may be supplied to the official on payment of prescribed fee, which is Rs.5/-. The applicant is ready to pay the prescribed fee, even if the amount is more than Rs.5/- in the manner prescribed by your high authority.]
- (ii) The applicant may also be made known the reason for the undue delay of 54(Fifty Four) months in the disposal of his representation-dated 1.2.99.

But the said representation dated 21st Aug 2003 is still pending with the above 'representing Respondent No.1' for more than 17(Seventeen) months.

- - Copy of applicant's representation dated 21st Aug 2003 is attached as ANNEXURE-A/9.

4.7. The applicant has, therefore, approached the Hon'ble Tribunal, through this present application, for immediate redressal and justice.

5. GROUNDS FOR RELIEF(S) WITH LEGAL PROVISIONS:

The applicant most humbly submits that the relief(s) prayed in Para-8 below is/are based on the following grounds and legal provisions:

5.1. As per G.I., Dept of Per & Trg O.M No.28034/6/2002-Estt.(A) dated 11-01-2002, representation by a Govt servant requiring examination only in the Department/Ministry should be disposed of within a maximum period of six weeks from the date of receipt. But in this instant case, the applicant's representation dated 21.08.2003 is pending for more than 17(Seventeen) months;

5.2. As per G.I., Dept of Per & Trg O.M No.28034/6/2002-Estt.(A) dated 11-01-2002, final reply sent to the Govt servant should be self-contained, cover all the points raised by the Govt servant; and in a case where the representation of the Govt servant is rejected, the grounds therefore should be clearly indicated in the final reply. But, in this instant case, none of the requirements spelt out in the said O.M dated 11-01-2002 has been complied by the above 'representing Respondent No.1';

5.3. As per G.I., M.F., O.M No. 3(2)-E.IV dated 14th March 1976, the Respondents 2 to 4 above are duty bound to ensure that the correctness of entries against the following items of Part-I "Bio-data" has been verified from original certificates furnished as valid documentary evidence for the respective purpose: -

- (i) Whether a member of Scheduled Caste/Tribe? •
- (ii) Date of Birth by Christian era and wherever possible also in saka era (both in words and figures).
- (iii) Educational qualification:
 - (a) at the time of appointment;
 - (b) subsequently acquired.

- (iv) Professional and technical qualification not covered by (iii) above.

But, in this instant case, the date of birth of the applicant was not recorded on the basis of documentary evidence furnished by the applicant at the time of entry into service. Thus, the act of the Respondents 2 to 4 above, to record an incorrect date of birth in the service book without any basis, was not only irregular and totally against the provisions of the govt instructions but totally against the settled principles of law laid down by the Hon'ble Supreme Court in "State of Orissa Vs Dr (Miss) Binapani Dei & Others [1967 AIR 1269]".

- 5.4. As per G.L., Dept of Per & A.R O.M No.28034/35/76-Estt.(A) dated 19th January 1977, the above Respondents, especially the Respondents 2 to 4 above, are duty-bound to ensure that attested copies of certificates of age and educational qualifications are placed in Volume-II of the Service Book in the safe custody of the Head of Office. Therefore, the Respondents are very much in possession of the attested copy of the age proof and educational qualification certificate submitted by the applicant. But, the Respondents, especially the representing Respondent No.1, not only failed to disposed of the applicant's representation dated 1.2.99 on the basis of facts and materials on record but totally failed to comply the requirement of G.L., M.F., O.M No.F.12 (6)-E.IV/54 dated 31st January 1955 and No.F.12 (16)-E.IV/60

dated 09th May 1961 which invariably necessitates that a Govt servant must be supplied with a certified copy of Service Book. Therefore, a grave injustice has been caused to the humble applicant.

- 5.5. The Hon'ble Supreme Court in "State of Orissa Vs Dr (Miss) Binapani Dei & Others [1967 AIR 1269]", has held that even an administrative action involving civil consequences must be made consistently with the rules of natural justice, after informing the Govt servant of the case, the evidence in support thereof and after giving an opportunity of being heard and meeting or explaining the evidence followed. But, in this instant case, the Respondent No.4 recorded an incorrect/false date of birth in the service book of the applicant, not based on the age and educational qualification certificate furnished by the applicant but on some other basis which was not made known to the present applicant. Therefore, the incorrect date of birth was recorded in the service book of the applicant on the personal whims of the Respondent No.4; and the applicant was not given any opportunity of being heard before such wrong date of birth, other than the actual date of birth available in the age and educational qualification certificate furnished by the applicant, was recorded in his service book. Therefore, the Respondents, in this instant case, have violated the principle of law laid down by the Hon'ble Supreme Court as well as the principle of natural justice.

6. DETAILS OF THE REMEDIES EXHAUSTED:

The applicant declares that the applicant has no other statutory remedy to be exhausted. The applicants representation dated 1.2.99 was rejected by the above 'representing Respondent No.1' and the applicant's representation dated 21.08.2003 is pending with the above 'representing Respondent No.1' for more than 17(Seventeen) months. The applicant also submitted a reminder representation dated 25th June 2004 to the above 'representing Respondent No.1', but no action, as required under rules, has yet been initiated by the above 'representing Respondent No.1'.

- Copy of applicant's Representation dated 25th June 2004 is attached as ANNEXURE-A/10.

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 regarding the matter in respect of which this application has been made, before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEF(S) SOUGHT:

In view of the facts mentioned in Para-6 above, the applicant prays the Hon'ble Tribunal that:

- (i) The above 'representing Respondent No.1' viz: The Post Master General, N.E.Circle, Shillong may kindly be directed to dispose of the applicant's representation dated 21.08.2003 with a speaking order, with due compliance to G.I., Dept of Per & Trg O.M No.28034/6/2002-Estt.(A) dated 11-01-2002 and

G.L., M.F., O.M No.F.12 (6)-E.IV/54 dated 31st January 1955 and No.F.12 (16)-E.IV/60 dated 09th May 1961, within such time-limit as the Hon'ble Tribunal may deem proper;

- (ii) The above 'representing Respondent No.1' may also be directed to supply all the copies of documents required in the applicant's representation dated 21.08.2003 within such time-limit as the Hon'ble Tribunal may deem proper;
- (iii) The applicant may be allowed the cost of this application; and
- (iv) The applicant may be allowed any other benefit(s), which the Hon'ble Tribunal may deem proper to render justice.

9. INTERIM ORDER, IF ANY PRAYED FOR:

The applicant humbly submits that he does not pray for any interim relief at this stage.

10. IN THE EVENT OF APPLICATION BEING SENT BY REGISTERED POST:

The applicant does not desire to have oral hearing at the admission stage.

11. PARTICULARS OF BANK DRAFT / POSTAL ORDER FILED IN RESPECT OF THE APPLICATION FEE:

Indian Postal Order Number :	11 G 386167
Office of Issue :	Imphal Head Post Office
Date of Issue :	05.02.2005
Office of Payment :	Chirwahati

12. LIST OF ENCLOSURES:

1. Application accompanied by Index in Appendix-A
2. ANNEXURE-A/1 to ANNEXURE-A/10.
3. Indian Postal Order for Rs.50/- for application fee.

VERIFICATION

I, Shri Md Khalilullah, S/o Shri M V Abdul Halim, aged about 52 years, resident of Mayang Imphal Bangoon village, PO & PS : Mayang Imphal Distt: Imphal West, [Manipur State] do hereby verify that the contents of Paras 1 to 12 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Date : 18.02.2005

Md. Khalilullah
Signature of the applicant

Place: Imphal.

To

The Registrar,
Central Administrative Tribunal,
Rajgarh Road, Guwahati - 781 005.

COMPILATION No.2



ANNEXURE-A/1 to ANNEXURE-A/10

ANNEXURE-A/1

Extract of 'G.I., M.F., O.M No.F.12 (6)-E.IV/54 dated 31st January 1955
and No.F.12 (16)-E.IV/60 dated 09th May 1961'

Supply of certified copy of Service Book on quitting service: -

The cost of Service Book should be borne by the Government and that it should not be returned to the Government servant on retirement, resignation or discharge from service. However, a certified copy of the Service Book may be supplied to the Government servant, if asked for by the Government servant concerned, on his retirement, resignation or discharge from service on payment of a copying fee of Rupees Five.



Sub-District Collector,
O/o the Additional Commissioner,
Moreh (Mizoram)

ANNEXURE-A/2

Copy of G.I., Dept of Per & Trg., O.M.No.28034/6/2002-Estt(A) dated 11.01.2002

No.29034/6/2002-Estt(A)
Government of India
Ministry of Personnel, Public Grievances & Pension
Department of Personnel and Training
(ESTT.(A) DESK-I)

Dated the-11th January 2002.

OFFICE MEMORANDUM

Subject: Recommendations of the committee on Service Litigations regarding representations made by the Government employees, requiring examining in the Ministries/Departments.

The undersigned is directed to refer to the subject mentioned above and to communicate the following decision of this Department as per recommendations made by the committee on Service Litigations: -

- (a) A representation made by the Government employee requiring examination only in the Ministry/Department should be disposed of within a period of six weeks and if requiring inter-departmental consultations such representation should be replied to normally within a maximum period of three months.
- (b) Final reply sent to a Government servant on his representation should be self-contained, cover all the points raised by him in a case where the representation of the Government servant is rejected, the grounds therefore should be clearly indicated.

2. All the Ministries/Departments, therefore, are requested to dispose all the representations made by the Government employees accordingly.

Sd/-
(Sahadeo Ram)
Deputy Secretary to the Govt of India

To
All Ministries/Departments of the Govt of India.

[Signature]
Sub-Collector,
O/o the Adm Dept, Commissioner,
Machil (Manipur).

DEPARTMENT OF POSTS:INDIA
OFFICE OF THE DIRECTOR POSTAL SERVICES:MANIPUR
IMPHAL -795001

No. B-2/Md. Khalilullah

dated 20.08.2003

Shri Md. Khalilullah, S/O Mv. Abdul Halim, employed as Group 'D' Imphal H.O. in Manipur Postal Division, whose date of birth falls on 10.08.1943 is hereby allowed to retire on superannuation pension with effect from 31.08.2003 (A/F).

Copies of charge reports will be submitted to all concerned.

(R.K. B. Singh)

Director Postal Services
Manipur:Imphal-795001

Copy to:

1. The Postmaster, Imphal H.O.
2. Md. Khalilullah, Group 'D'-Imphal H.O.
3. Budget Branch, DPS-office, Imphal.
4. Office copy.
5. Spare.

(R.K. B. Singh)

Director Postal Services
Manipur:Imphal-795001

Sub-Deputy Collector,
O/o the Asst Deputy Commissioner,
Aizawl (Manipur)

ANNEXURE-A/4

Extract of G.I. M.F., O.M.No. 3 (2) – E.IV (A) dated 14th March 1976

Certificates to be recorded in the Service Book: -

1. Employee has been medically examined and found fit.
2. His/her character and antecedents have been verified.
3. He/She has furnished declaration of his/her not having contracted bigamous marriage.
4. He/She has taken the oath of allegiance/affirmation to the Constitution.
5. He/She has furnished the declaration of home-town which has been accepted.
6. The correctness of the entries against the following items of Part-I "Bio-data" has been verified from original certificates furnished as valid documentary evidence for the respective purpose: -
 - (i) Whether a member of Scheduled Caste/Tribe?
 - (ii) Date of birth by Christian era and wherever possible also in Saka era (both in words and figures).
 - (iii) Educational qualifications:
 - (a) at the time of appointment;
 - (b) subsequently acquired.
 - (iv) Professional and technical qualification not covered by (iii) above.

Entries regarding the above will be made at the time of first appointment and attested by the Head of Office or any other officer duly authorized in this behalf. Additions and alterations will also be similarly attested.

7. He/She has filed nomination for GPF and the related notices have been forwarded to the Accounts Officer on various dates.
8. He/She furnished details of the family members.
9. He/She has filed nomination for Death/Retirement Gratuity.

A. H. S. S.
S. S. S.
Sub-Collector,
O/o the Addl. Secy, Government
Morch (Mizoram)

(20)
9

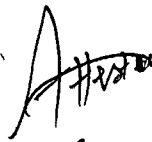
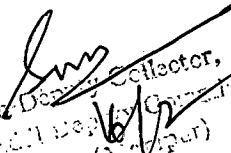
ANNEXURE-A/5

Extract of G.I., Dept of Per & A.R O.M No.28034/35/76-Estt.(A)

Dated 19th January 1977

Documents to be placed in Volume-II of the Service Book in the safe custody of the Head of Office: -

1. Relaxation of age, educational qualifications (authenticated/attested copy).
2. Report regarding verification of character and antecedents (original).
3. Medical certificate of fitness (original).
4. Attested copies of certificates of age and educational qualifications.
5. Declaration regarding marital status.
6. Oath/affirmation of allegiance to the Constitution (original).
7. Declaration and acceptance of home-town (signed/attested copy).
8. Nomination for GPF (signed/attested copy).
9. Nomination for retirement/death gratuity.
10. Details of family (signed/attested copy).
11. Exercise of options in service matters (signed/attested copy).
12. Condonation of break in service (authenticated/attested copy).
13. Order regarding change of date of birth (authenticated/attested).
14. Collateral evidence in respect of past service (original).
15. Change of name (original).



Sub-Deputy Collector,
O/o the Adm. Dept. (General Secy.),
Morch (Muzaffarpur)

Certificate

SL No.....91.

Book No. 5

Certified that... Md. Khalilullah
son/daughter of... Moulvi. Abdul Halim an inhabitant of
..... Bengodan village left this School on ..1st of .. March 1941
His/Her age at that date according to the Admission Register was ..11 (eleven) years
..... 2 months 2 days. He/She was reading in class vi (Six) and
had/had not passed the School Promotion Examination to class ..vii (Seven) held
in 1944....

All sums due by him/her have been paid viz., fees and fines upto 29th Feb. 1964.

Character— Good/Bad

Reasons for leaving :—

- (i) Completion of the school course.
- (ii) Ill health.
- (iii) Unavoidable change of residence,
- (iv) Minor reasons,

Date.....24.5.1981

[Signature]
Head Master,
Bengoon Jr. High Madrasah,
Manipur,

SUB-DIVISIONAL COLLECTOR,
O/o the Asst. Deputy Commr. & Secy,
Muzoch (Muzapet)

ANNEXURE-A/7Extract of 'Supplementary Rule-202' of F.R & S.R Part-IInspection of Service Book by the Government Servant: -

It shall be the duty of every Head of Office to initiate action to show the Service Book to the Government servant concerned every year and to obtain their signature therein in token of their having inspected the Service Book.

A certificate to the effect that he has done so in respect of the preceding financial year should be submitted by him to his next superior officer by the end of every September.

[S.R-202]

A. Heston
Sus
Sub-Deputy Collector,
O/o the Adml Deputy Commissioner,
Moren (Muzir)

To,

Shri S. Samanta, IPS
Chief Postmaster General,
N.E. Circle, Shillong-793001.

Subj:- Incorrect noting of the date of birth in the service book without proper verification and a humble prayer thereof for rectification and also brought to book the official responsible such misdeeds.

Respected Sir,

With due respect and finding no other alternative, I beg to look up to your kindness, the following few lines before your honour for favour of kind considerations and necessary actions.

That Sir, your most humble sub-ordinate is none other than a Gr'D' official presently working as packerman at Imphal H.O.

That Sir, I was promoted to the cadre of Gr'D' from the PD cadre in 1981 and accordingly I was posted as Gr'D' under the unit of Sub-Divl. Inspector of Post offices, Ukhrul Sub-Dn. vide SDIPOs, Ukhrul memo No. B-2/Staff/Ukhrul dated 6.8.81. Since then, I have been working in different capacities as Gr'D' as orderly as packerman etc. to the entire satisfaction of my superior officers.

That Sir, over the years nothing is made known to me by my controlling officers as regards my date of birth as noted in the service book. As for my School Certificates furnished at the time of appointment as PD-Packer (Mayang Imphal SO) in 1972, my date of birth was 1.3.53. but in the service book the date of birth was noted down as 1.3.43. It is at all in the dark as to how my date of birth was noted erroneously in the so called service book by my controlling officers without any proper verification with the relevant age proof records or documents.

That Sir, the Supdt. of PO Manipur Divn, in his letter No. B-2/Postman/Gr'D'/Corr dtd. 30.11.98 has communicated that my request for alteration of date of birth cannot be entertained as I have to submit application after completion of 5 years from the date of joining.

That Sir, it is in this context, I would like to state that the communication as conveyed by the Supdt. of Post offices is rather vague and out of place. The incorrect noting of my date of birth in the Service book as 1.3.43 is known only by my query from the A/C Branch. IP H.O. in Oct/98.

That Sir, as your kindness knows, I am a Gr'D' official having actual nil educational background except were reading and writing and as such the rules and procedures of the departmental Manuals and Volumes are not known to me at all.

Contd. P/2...

Sub-Postmaster General,
Office of the Deputy Commissioner,
Mokokchung (Mokokchung)

(24)
47

-(2)-

That Sir, my humble prayer to the competent authority is that my date of birth as per age proof certificates submitted at the time of appointment is 1.3.53. As to how and by whom my date of birth as proved by school certificates has been altered without my knowledge as 1.3.43.

A thorough probe may kindly be conducted as the nature of dealings meted out to me seems rather unfair and unjust and requested your honour to kindly passed orders for cancellation of the incorrect date of birth noted in the service book and put my correct date of birth in the service book at the earliest.

An early action is solicited and for which act of your kindness, I shall remain ever grateful to you.

Dated at Imphal,
the 1.2.99.

Yours faithfully,

Md. Khalilullah

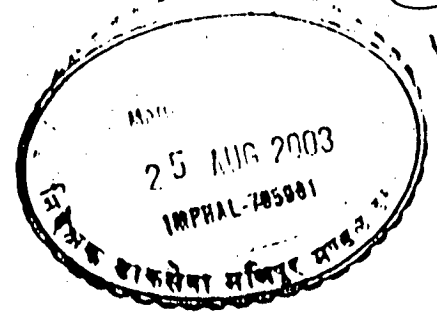
(M.D. KHALILULLAH)

Group 'D'

Imphal H.O.-795001.

A Hassan

Sub-Inspector
Commissioner,
March (1999)



To

The Post Master General,
North Eastern Circle,
Shillong - 793 001.

(Through Proper Channel)

Sub: Supply of documents/information in connection with rejection of petitioner's representation dated 1.2.99 & endorsements dated 22.04.2003 & 13.06.2003 - regarding correction of date of birth which was wrongly recorded due to the mistake of the deptl authorities.

Ref: C.O file Mark:Staff/153-1/91.

Respected sir,

As per the information conveyed vide DPS, Imphal letter No.B-2/Md.Khalilullah dated 20.08.2003, the prayer of the undersigned petitioner for the correction of wrongly recorded date of birth has been rejected vide C.O/ Shillong letter No.Staff/153-1/91 dated 5th Aug 2003 on certain grounds which are not at all applicable in the present case.

1. In this instant case, the prayer of the petitioner is to correct the wrongly recorded date of birth with reference to the school certificate submitted by the petitioner at the time of first appointment in the department. The petitioner submitted application for the post of Group-D in the year 1980/1981 along with supporting documents of age proof and educational qualification, and further after selection for appointment in Group-D cadre submitted the documents in support of age proof and educational qualification. Therefore, the date of birth of the petitioner ought to have been recorded in the service book with reference to those documents, which were submitted by the petitioner at the time of first appointment. But the fact of wrong entry of date of birth in the service book came to the notice of the petitioner only in May/1995 and soon after knowing the fact the petitioner represented to the Supdt of Post Offices, Manipur Division, Imphal for necessary action. Thus, the petitioner had represented the case at the first possible instance.

[Handwritten signature]
25/08/03

[Handwritten signature]
Sub-Postmaster,
O/o the Adm. Officer,
Manipur (Imphal)

2. The petitioner does not pray the change or alteration of date of birth (in a manner that he declared one date of birth at the time of first appointment and desires to alter the same later), but he prays for correction of date of birth (which has been wrongly recorded in the service book by the departmental authorities without any basis) on the basis of school certificate/age proof certificate submitted by the petitioner at the time of first appointment. Hence, the case of the petitioner should not be dealt with under misrepresenting facts.

3. The petitioner submitted representation to the Post Master General, Shillong on 1.2.1999 and the said representation has been disposed of after 4 ½ years i.e. after the lapse of 54 (Fifty four) months. But, the reason for the delay in the disposal of representation has not been made known to the petitioner. It is only when the petitioner took up the matter to the Hon'ble Minorities Commission, the representation of the petitioner has been disposed of, that is also with an order of rejection just 10 (Ten) days before the proposed date of superannuation on the basis of wrongly recorded date of birth. Hence, the petitioner certainly needs to know the reason for the undue delay of 54 (Fifty four) months for further action in the matter.

4. The service record of the petitioner should start with the application submitted by the petitioner for promotion to Group-D cadre in 1981 along with the documentary proof for the age (date of birth) and educational qualification. It may kindly be noted that the petitioner was promoted to Group-D cadre after passing the prescribed literacy test which was compulsory for the promotion of EDAs to Group-D cadre up to the year 1987. Therefore, it may be confirmed from the said records that the petitioner declared his date of birth as 01.03.1953 on the basis of same school certificate by which the petitioner presently prays for the correction. Therefore, rejection of petitioner's prayer without consulting the above documents submitted by the petitioner in 1981 is not only irregular but arbitrary and illegal.

5. The petitioner may kindly be supplied with the copies of the following documents for further necessary action:

[Signature]
Sub-Commissioner,
O/o the Sub-Commissioner,
Shillong

- (a) Copy of application submitted by the petitioner in the year 1980/1981 for appearing in the literacy test for promotion to Group-D cadre.
- (b) Copy of age proof & educational qualification certificate submitted by the applicant at the time of initial appointment on the basis of which the department claims to have recorded the date of birth in the service book.
- (c) Copy of service book of the petitioner. [As per the existing rules, copy of service book may be supplied to the official on payment of prescribed fee, which is Rs.5/-]. The petitioner is ready to pay the prescribed fee, even if the amount is more than Rs.5/- in the manner prescribed by your high authority.
- (d) In addition, the petitioner may also be made known the reason for the undue delay of 54 (Fifty Four) months in the disposal of his representation dated 1.2.99, as already prayed in Para-3 above.

Yours faithfully,

Place: Imphal
Date : 21st August 2003.

Md. Khalilullah
(Md. Khalilullah)
Group-D Packer,
Imphal H.P.O.

Copy to:

1. The National Commission for Minorities, Lok Nayak Bhavan (Fifth Floor), Khan Market, New Delhi-110 003 for information. The case has reference to the Hon'ble Commission's file mark: M/022/26/1/03 NCM.

Md. Khalilullah
(Md. Khalilullah)
Group-D Packer,
Imphal H.P.O.

[Signature]
Sub-Inspector
Of the Adm. Deptt. Commissioner,
Morch (Imphal)

To

The Post Master General,
North Eastern Circle,
Shillong - 793 001.

Sub: Supply of documents/information in connection with rejection of petitioner's representation dated 1.2.99 & endorsement dated 22.04.2003 & 13.06.2003 - regarding correction of date of birth; which was wrongly recorded due to the mistake of the departmental authorities.

Ref: C.O file mark: Staff/153-1/91 and letter of even no dated 05th Aug 2003.

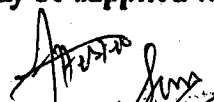
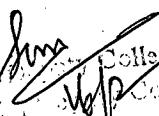
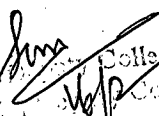
Respected Sir,

With due respect, I, the undersigned petitioner, beg to draw your kind attention to my representations dated 21st Aug 2003 [copies attached as ANNEXURE-A & B for ready reference] on the above subject. In the said representation, I had submitted the following points that:-

- (i) The petitioner did not, at any point of time, request for alteration of date of birth under the provision of FR-56, but had requested the authorities concerned to correct the wrongly recorded date of birth in the service book with reference to the School Certificate submitted at the time of initial/first appointment;
- (ii) The petitioner had not been informed of the reason for the undue delay of 54(Fifty Four) months in the disposal of petitioner's representation dated 01.02.99 addressed to the Post Master General, N.E.Circle, Shillong;
- (iii) The claim of the petitioner ought to have been considered duly taking into account the following documents/facts-
 - (a) The school certificate submitted by the petitioner at the time of initial appointment; and
 - (b) Col.7(a) in the first page of the petitioner's service book, which also shows the wrongly recorded 'date of first appointment as 18th Aug 1981' instead of 07.06.1981 [The actual date of joining of the petitioner was 07.06.1981].

But, instead of looking into the facts and documents, the petitioner's case had been rejected arbitrarily and illegally; and

- (iv) The petitioner may be supplied with the copies of the following documents-


Sd/- 
O/o the  Collector,
March (Muzipar)

- (a) Copy of the application submitted by the petitioner in the year 1980/1981 for appearing in the literacy test for promotion to Group-D cadre;
- (b) Copy of age proof & educational qualification certificate submitted by the petitioner at the time of initial appointment in the department, on the basis of which the date of birth in the service book was recorded; and
- (c) Copy of Service Book [on payment prescribed fee in the mode prescribed by your high authority].

2. But, unfortunately, the representation dated 21st Aug 2003 whose copy was also forwarded to your esteemed office vide Imphal HPO Speed Post Letter No.EE 852688366 IN dated 23/08/2003 is still pending at your good office without any information me.

3. I therefore submit this present representation to humbly request your kind personal intervention in the matter so as to ensure that my representations dated 21st Aug 2003 are disposed of within 7(Seven) days from the date of receipt of this representation. If I fail to receive reply by 10th of July 2004, I will approach the appropriate legal forum for remedy without any further notice. I, sincerely believe that your kind personal intervention will ensure to settle the matter without litigation.

Date : 25th June 2004
Place : Imphal

Yours faithfully,
Md. Khel. Lullah

(Md. Khalilullah)
Group-D Packer,
Imphal HPO

Now at: Vill & BPO – Mayang Imphal Bangoon,
PO : Mayang Imphal – 795 132 (Manipur State)

Encl: As stated above.

Copy to:

1. The National Commission for Minorities, Lok Nayak Bhavan (Fifth Floor), Khan Market, New Delhi – 110 003 for information. The case has reference to the Hon'ble Commission's file mark:M/022/26/1/03 NCM.
2. The Director Postal Services, Manipur, Imphal – 795 001 for information.
3. The Supdt of Post Offices, Manipur, Imphal – 795 001 for information.

Md. Khel. Lullah

(Md. Khalilullah)
Group-D Packer,
Imphal HPO

Now at: Vill & BPO – Mayang Imphal Bangoon,
PO : Mayang Imphal – 795 132 (Manipur State)

[Signature]
Sub-District Collector,
O/o the Additional District Commissioner,
Moreh (Manipur)