

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No. OA 239/2007

R.A/C.P No.

✓ E.P/M.A No. 121/2007

1. Orders Sheet..... OAPg. 1to 1 MP 131/2007 andn 2008
2. Judgment/Order dtd. 11.04.2008Pg. 1to 7 Allonin
3. Judgment & Order dtd.Received from H.C/Supreme Court
4. O.A. 239/2007Pg. 1to 23
5. ✓ E.P/M.P. 131/2007Pg. 1to 3
6. ✓ R.A/C.P. 1Pg.to
7. ✓ W.S. R. No. 1 & 2Pg. 1to 7
8. Rejoinder.....Pg.to
9. Reply.....Pg.to
10. Any other Papers.....Pg.to
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendement Reply by Respondents.....
15. Amendement Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Sealita
09/10/2007

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 239/07
2. Miscellaneous Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(s) Jaganath Thakuria -VS- Union of India & Ors.

Advocate for the Applicants:- M. Chanda, S. Nath, H. K. Datta

Advocate for the Respondents:- Railway advocate, J. L. Sarkar

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs. 50/- deposited vide IPO/BD No. <u>326040886</u> Dated <u>22.8.07</u></p> <p><u>Reg. Registrar</u></p> <p><u>P.P.</u></p> <p><u>P.P.</u></p> <p><u>20/8/07</u></p> <p><u>P.P.</u></p> <p><u>20/8/07</u></p> <p>order dt. 31/8/07 sent to D/Section for issuing learned advocate for both the parties.</p> <p><u>14/10/07</u></p>	<p>31.8.2007</p>	<p>The Applicant is working as Sr. Cashier/NS(Gr-II), (Con), Bogibeel, N.F.Railway, Dibrugarh. His grievance is that his date of birth has been recorded in the service book as 01.09.1947 instead of 01.11.1947 as per matriculation certificate. He submits that there are two months' difference. It is also submitted that Applicant is also retiring today.</p> <p>Heard Mr.M.Chanda, learned counsel for the Applicant. Dr.J.L.Sarkar, learned Railway Standing Counsel submitted that Applicant is coming at the fag end of the date of his retirement, and therefore, the O.A. cannot be considered. However, let the case be posted after six weeks. In the meantime, Respondents will take instruction and file statement.</p> <p>No interim order is called for at this stage. However, Applicant's retirement will be subject to the outcome of the O.A. Post the matter on 5.11.2007.</p>

Vice-Chairman

/bb/

2-11-07

in instruction.

las

OA. 239/07, 2

05.11.2007 The matter is admitted.
Respondents are directed to file their
reply statement by the next date.

Call this matter on 05.12.2007.

W/s not filed.

2A
4.12.07

/bb/

Member (A)

05.12.2007

No written statement has been filed
as yet in this case. Dr. J. L. Sarkar,
learned Railway Standing counsel
appearing for the Respondents seeks more
time to file written statement. Prayer is
allowed.

Call this matter on 22.01.2008.

W/s not filed

2A
21.1.08

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

lm

18.2.08

W/s filed
by the Respondent.
Copy received.

2A

22.01.2008

No Written statement has yet been
filed in this case. On the prayer of Dr.
J.L.Sarkar, learned Standing counsel for
Railways call this matter on 28.02.2008
awaiting written statement from the
Respondents.

W/s filed.

2A
27.2.08

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

pg

O.A. 239/07

28.02.2008

Dr.J.L.Sarkar, learned Railway Standing counsel submitted that written statement has been filed after serving a copy thereof on Mrs.U.Dutta, learned counsel for the Applicant. Mrs. Dutta seeks three weeks time to file rejoinder.

Rejoinder not
filed.

24.3.08

Call this matter on 25.03.2008.

(Khushiram)
Member (A)

/bb/

25.03.08

In this case written statement and rejoinder have already been filed.

Call this matter on 26.03.2008 for hearing.

(M.R.Mohanty)
Vice-Chairman

Pg

26.03.2008

Heard Mr M. Chanda, learned Counsel for the Applicant and Mr J.L. Sarkar, learned Standing Counsel for the Railways. Hearing concluded. Orders reserved.

(M. R. Mohanty)
Vice-Chairman

nk m

11.04.2008

Judgment pronounced in open Court.

For the reasons recorded separately, this O.A.

is allowed. No costs.

[M.R.Mohanty]
Vice-Chairman

254:09

Copy of the budget
sent to the D/Sec.
for issuing the
same to the parties
along with the L/No
for the parties.

cm

Budget sent
vide D/No 1867 to
1869 dt 25.4.08

29/4/08

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
O.A.No. 239 of 2007

Guwahati, this the 11th April, 2008

CORAM: The Hon'ble Mr. Manoranjan Mohanty, Vice-Chairman

Shri Jagannath Thakuria
S/o Late Dandiram Thakura
Sr. Cashier/NS[Gr-I]
Construction/Bogibeel,
N.F.Railway, Dibrugarh,

Applicant

By Advocate Mr. M.Chanda

Versus

1. The Union of India,
Represented by the
General Manager,
N.F. Railway, Maligaon,
Guwahati-781 011
2. The Dy, Chief Accounts Officer,
[Cash and Pay],
N.F. Railway,
Maligaon.

Respondents

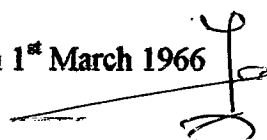
By Advocate Dr. J.L. Sarkar, Standing Counsel for Railway

ORDER
11.04.2008

MANORANJAN MOHANTY, VICE-CHAIRMAN:-

Materials placed on record goes to show that the Applicant passed in High School Leaving Certificate Examination during the year 1966 from Board of Secondary Education, Assam. The Admit Card issued [by the said Board] to him for appearing in the said examination disclosed that the Applicant was 18 years and 4 months old on 1st of March of 1966. The HSL Certificate, that was finally granted to him [by the BSE/Assam] also disclosed that the Applicant was 18 years & 4 months old on 1st March, 1966. He faced the recruitment [for the post of SHROFFS] conducted by Railway Service Commission. While filling up the attestation forms [submitted to the Railway Service Commission] the Applicant furnished the following informations at Column-7 of the said form:-

- | | |
|--------------------------|-----------------------------------------------------|
| 7 [a] Date of birth | [a] 1 st September 1947 |
| [b] Present age | [b] 25-6-0 months on 01.07.73 |
| [c] Age at Matriculation | [c] 18 years 4 months on 1 st March 1966 |



He was selected by the Railway Service Commission and appointed in the services of Railways and, as it appears, in his service book [that was opened and attested on 16.11.1976] 01.11.1974 was initially recorded to be his date of birth and, by scoring through the same, 1st September 1947 has been recorded with a note below that he was 18 years & 4 months on 1st March 1966 as per the Board of Secondary Education Certificate.

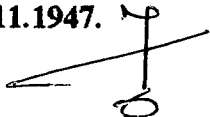
Applicant, at the fag end of his service with the Railways, came to know of the mistakes and represented for rectification of the mistakes that has crept in; which was going to affect him adversely.

The prayer of the Applicant having been turned down, he has approached this Tribunal with the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985.

2. By filing a written statement, the Respondents have contested the matter by stating that the Applicant having disclosed his date of birth to be 1st September 1947 [at the initial stage of his employment] his prayer for correction of the said date of birth was not available to be entertained.

3. On perusal of the personal file & Service Book etc. of the Applicant, at the hearing, it appears that although the grievances of the Applicant was somehow appreciated by some of his higher authorities in his Department, the Personnel Department of the Railways did not agree for a correction and, therefore, the matter was re-submitted for being placed before the AGM with a note on 10.08.2007; relevant portion of which [Note of Dy. CAO/G] reads as under;-

1. The age of the staff as given in the HSLC as on 01.03.1966 is 18 years 4 months. Accordingly, the DOB should have been worked out as 01.11.1947.



2. DOB as mentioned by the staff in his application for Railway Service for the post of Shroff is 01.09.1947. Hence there is a difference of two months from DOB arrived at and mentioned in the HSLC Exam.
3. Earlier this case was put up to CPO/A and he has not agreed to the appeal for alteration of the DOB on the ground that "the candidate is a matriculate and he has clearly mentioned his DOB as 01.09.47 in his RRB [the then RSC] application form as well as in the attestation form. On the first page of Service Record also his DOB is recorded as 01.09.47 and he has signed on it".
4. The provisions given under para 225 [1] to 4[i] to [iii] IREC [Vol. I] have been examined and it appears that there is no way we can alter the DOB at this stage.
5. However, it is a fact that the HSLC Exam was held in 1966 much before the staff applied and joined the Service in 1973. At the time of applying for service and during the process of appointment the staff had enclosed the attested copies of the following documents:-
 - i) Admit Card issued by Board of Secondary Education, Assam, for appearing the HSLC EXAM attested by Headmaster, Jalukbari Govt. Aided High School on 13.12.71 and the age recorded as on 1.3.66 is 18 years 4 months X days [SN/8].
 - ii) True Copy HSLC Exam passed Certificate [issued by Board of Secondary Education, Assam] and attested Sub Deputy Collector, Gauhati on 23.01.1971 [the year is not clearly legible] in which the age is recorded as on 1.3.66 as 18 years 4 months X days. The date of issue of this Certificate is recorded as 11th June 1966.
6. Now, the staff has produced a duplicate Certificate of HSLC issued by the Board of Secondary Education, Assam and the age is recorded as 18 years 4 months X days as on 1st March 1966. The Original date of issue of the certificate is seen as 11th June 1966 but found manually cut and written as 27th July 2007.
7. It is amply clear that this is a gross mistake committed by the staff himself. The staff should have properly checked and the DBO correctly computed before inserting the same in the Application form for the post of Shroff and submitted to RRB in 1973 and subsequently in his service book.
8. Rly Ministry's decision given as footnote [a] to para 225 of IREC [Vol. 1] states that "when a candidate declares his date of birth he should produce documentary evidence such as Matriculation certificate or Municipal birth certificate... Such authenticated documentary evidence could be the School Leaving Certificate, a Baptismal Certificate in Original or some other reliable document..."
9. AGM, the competent authority in this case may be requested to consider insertion of the date 01.09.47 as the DOB of the applicant as a genuine mistake on the part of the staff himself and to consider High School Leaving Certificate as the basis of documentary evidence to arrive at the correct date of birth.

May be forwarded to AGM if agreed to.

Sd-

10/8/07

Dy.CAO/G"

Next higher officer i.e. FA & CAO, before whom the above note was produced, did not appreciate the point in issue and gave a peculiar negative note to the following effect on 13.08.07;-

"I am not able to agree. It is also possible that the employee's declaration may be correct, and the birth date recorded in school may have been modified for some consideration [at the time of admission]. In my opinion, employee's date of birth, as declared by him should be retained.

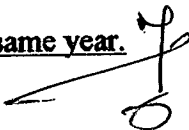
Sd-
13/08"

Finally, the AGM, in a stroke of pen, rejected the case; by just telling that he has agreed with the views of FA & CAO. The AGM in his one line note, wrote as under on 14.08.2007;-

"I agree with the views of FA & CAO.

Sd-
14/8"

4. At the hearing, Mr. Chanda [learned Counsel for the Applicant] by referring to Rule 225 of IREC [Vol. I], argued that the authorities ought to have relied on the entries of High School Certificate to accept the date of birth of the Applicant as 01.11.1947 and that the grievances of the Applicant [for correction] ought to have been placed before the General Manager of the N. F. Railway before being turned down. Dr. Sarkar, learned Standing Counsel for the Railways argued that no improvement of the case could have been done by placing the matter before the General Manager; especially when the Applicant wanted a service benefit of only 2 months. In the present case, while the Applicant wanted to retire in the month of November, he was given retirement during the month of September of the same year.



Rule 225 of Indian Railway Establishment Code [Vol. I] reads as under:-

"225. Date of birth.- [1] Every person on entering railway service, shall declare his date of birth which shall not differ from any declaration expressed or implied for any public purpose before entering railway service. In the case of literate staff, the date of birth shall be entered in the record of service in the railway servant's own handwriting. In the case of illiterate staff, the declared date of birth shall be recorded by a senior railway servant and witnessed by another railway servant.

[2] A person who is not able to declare his age should not be appointed to railway service.

[3] [a] When a person entering service is unable to give his date of birth but gives his age, he should be assumed to have completed the stated age on the date of attestation, e.g. if a person enters service on 1st January, 1980 and if on that date his age was stated to be 18, his date of birth should be taken as 1st January, 1962.

[b] When the year or year and month of birth are known but not the exact date, the 1st July or 16th of that month, respectively, shall be treated as the date of birth.

[4] The date of birth as recorded in accordance with these rules shall be held to be binding and no alteration of such date shall ordinarily be permitted subsequently. It shall, however, be open to the President in the case of a Group A & B railway servant, and a General Manager in the case of a Group C & D railway servant to cause the date of birth altered.

- [i] where in his opinion it had been falsely stated by the railway servant to obtain an advantage otherwise inadmissible, provided that such alteration shall not result in the railway servant being retained in service longer than if the alteration had not been made, or
- [ii] where, in the case of illiterate staff, the General Manager is satisfied that a clerical error has occurred, or
- [iii] where a satisfactory explanation [which should not be entertained after completion of the probation period, or three years service, whichever is earlier] of the circumstances in which the wrong date came to be entered is furnished by the railway servant concerned, together with the statement of any previous attempts made to have the record amended."

Govt. of India Instructions printed below Rule 225 of Vol. I of IREC reads as under:-

"Railway Ministry's decision.- [a] when a candidate declares his date of birth, he should produce documentary evidence such as a Matriculation certificate or a Municipal birth certificate. If he is not able to produce such an evidence he should be asked to produce any other authenticated documentary evidence to the satisfaction of the appointing authority. Such authenticated documentary evidence could be the School Leaving Certificate, a Baptismal Certificate in

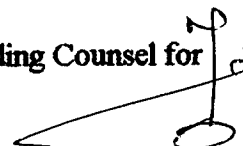
original or some other reliable document. Horoscope should not be accepted as an evidence in support of the declaration of age.

[b] If he could not produce any authority in accordance with [a] above he should be asked to produce an affidavit in support of the declaration of age.

[c] In the case of Group D employees care should be taken to see that the date of birth as declared on entering regular Group D service is not different from any declaration expressed or implied, given earlier at the time of employment as a casual labourer or as a substitute."

5. A total reading of the Rule 225 & the GOI/Ministry of Railway Instructions together makes it clear that entry [relating to age/date of birth] in Matriculation Certificate of an individual, in the services of the Railways, is to make the things final to any controversy relating to age/date of birth and the views of the General Manager [for any employee like the Applicant] is to be the final in the matter of an alteration of the entry in the matter of age/date of birth.

6. Examining the entire matter in the above premises [Rule 225 & GOI/MOR Instructions] it is clear that age of the Applicant was recorded as "18 years and 4 months on 01.03.1966" in his Matriculation Certificate; authenticated copy of which was available in the records of the Railways [being made available from the Railway Service Commission] ab-initio. Accordingly, the date of birth [in terms of the Rules of the Railways-Supra] was to be taken/accepted as 01.11.1947; as rightly noted by the Dy. CAO/G in his proposal/note dated 10/08/2007 extracted above. Of course, there was a mistake/discrepancy [when the date of birth was noted as 01.09.1947]; but in terms of Rule 225 of IREC, the same [discrepancy] was a curable one. It is unfortunate that the Personnel Department of Railway [being too technical] did not agree with the proposal and the FA & CAO also failed to appreciate the point by telling that the 'Schools records might have been manipulated'. There were no question of manipulation/modification of any record. The entry in Matriculation Certificate, as per Rules/Govt. Instructions, was to ^{be} taken as final. The Applicant also disclosed that before the Railway Service Commission. That was only to be accepted by the General Manager. Without placing the matter before the General Manager, the prayer was turned down at a lower stage. The argument of Dr. Sarkar, learned Standing Counsel for

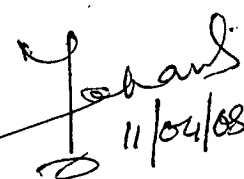


Railway, made that the General Manager might have delegated the powers to the AGM is not acceptable simply because; the powers that has statutorily been delegated to the General Manager was not available to be delegated further to AGM.0-

7. Totality of the case, as projected/discussed so far, goes to show that the authorities did not examine the mater in proper prospective [by not accepting the entry about age given in the Matriculation Certificate; which was also consistently disclosed by the Applicant in the attestation form supplied at the entry point of his employment and by not applying the Rules/instructions governing the field; which requires that in absence of date of birth/on the face of proper discloser of age; the authorities should have accepted the date of birth to be 01.11.1947] and, as a result, there has been a miscarriage of justice in the decisions making process [a] when the best evidence [as per Rules & Govt. Instructions] was available; the General Manager was only to give a formal order to allow the Applicant to continue in service, for next 2-months only, by accepting his date of birth to be 01.11.1947 and [b] as there were non-application of mind [by the subordinate authorities] for which the Applicant had to face retirement 2-months before.

8. In the above premises, the Respondents are finally directed to grant 2-months service benefit to the Applicant by treating his date of birth to be 01.11.1947 and treat him to have retired from service 2-months later.

9. This case is, accordingly, allowed. No costs.


11/04/08
[MANORANJAN MOHANTY]
Vice-Chairman

cm

30 AUG 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A. No. 239 /2007

Shri Jagannath Thakuria.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 17.01.1975 Applicant appointed as Shroff and posted at H.Q., N.F.Railway, Maligaon
- June, 2007 Applicant came to learn that he would be retiring on 31.08.2007 on the basis of D.O.B recorded in his service book i.e 01.09.1947 instead of 01.11.1947 as per matriculation certificate.
- 18.06.2007 Applicant submitted representation for correction of DOB in service book.
- 25.06.2007 It is informed that respondent no. 2 desired to verify the original HSLC certificate of the applicant.
- 06.07.2007 applicant submitted a fresh of the admit card of HSLC examination as proof of is age.
- 10.07.2007 The Rly. Authority informed by the impugned letter that alternation of date of birth has not been agreed to, by the authority.
- 10.07.2007 Applicant submitted another representation praying for correction of the recorded DOB in the service book.
- 17.08.2007 It is informed by the respondent no. 2 that the authority has not ben agreed to alter the recorded date of birth.

Hence this original application.

Jagannath Thakuria

PRAYER

1. That the Hon'ble Tribunal be pleased to declare that the correct date of birth of the applicant is 01.11.1947 instead of 01.09.1947 and his date of retirement is 31.10.2007 instead of 31.08.2007.
2. That the respondents be directed to correct the mistake entry with regard to the date of birth of the applicant in his service records and enter the date of birth as 01.11.1947 and refix his date of retirement as 31.10.2007 instead of 31.08.2007.
3. Costs of the application.
4. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for:

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

1. That the Hon'ble Tribunal be pleased to direct the respondents not to give effect to the impugned letter dated 17.08.2007 (Annexure-VII) and allow the applicant to continue in his service after 31.08.2007.
2. That the Hon'ble Tribunal be pleased to dispose of this application expeditiously.

Jagannath Thakuria

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

30 AUG 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

Title of the case : O.A. No. 239 /2007

Shri Jagannath Thakuria : Applicant.

-Versus-

Union of India & Ors. : Respondents.

INDEX

Sl. No.	Annexure	Particulars	Page No.
1.	---	Application	1-9
2.	---	Verification	-10-
3.	I series	Copies of the seven nos. of pay slip	11-17
4.	II	Copy of the letter dated 25.06.2007	-18-
5.	III	Copy of the letter dated 10.07.2007	-19-
6.	IV	Copy of the admit card	-20-
7.	V	Copy of the HSLC certificate	-21-
8.	VI	Copy of the representation dated 10.07.2007	-22-
9.	VII	Copy of the impugned letter dated 17.08.2007	-23-

Filed By:

Date:-

Advocate

Jagannath Thakuria's

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O.A. No. 239 /2007

BETWEEN:

10. *Jagannath Thakuria*
Shri Bishnu Saikia,
S/o- Late Dandaram Thakuria,
Sr. Cashier/NS (Gr-II),
Construction/Bogibeel,
N.E.Railway, Dibrugarh.

-----Applicant.

-AND-

1. The Union of India,
Represented by the
General Manager,
N.E.Railway, Maligaon,
Guwahati-781011.
2. The Dy. Chief Accounts officer,
(Cash and Pay),
N.E.Railway,
Maligaon.
- 3.

..... Respondents.

DETAILS OF THE APPLICATION

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

This application is made against the impugne letter bearing no. CP/EP/J.N.Thakuria dated 17.08.2007 issued by the respondent no. 2, whereby the prayer of the applicant for correction of his date of birth in official record has been rejected even inspite of submission of bonafide documents in support of the claim.

Jagannath Thakuria

Filed by: - *the applicant*
Through: - *U. Sultana*
Advocate on 30.08.07

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:

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That the applicant passed the high school leaving certificate examination (H.L.C examination) in the year 1966 under the Board of Secondary Education, Assam He was initially appointed on 17.01.1975 as Shroff and posted at Head quarter, N.F.Railway, Maligaon. At present he is working as Sr Cashier (const) at N.F.Rly., Dibrugarh.
- 4.3 That at the time of initial entry into the service in the respondent department, the applicants date of birth was wrongly recorded as 01.09.1947 instead of 01.11.1947. However, on verification of documents submitted with the application, the authority could detect the mistake subsequently and made necessary corrections in office records, incorporating therein the corrected date of birth of the applicant i.e 01.11.1947. Accordingly, on the basis of the corrected date of birth, the authorities worked out the date of retirement of the applicant which falls on 31.10.2007 and the same has been reflected in all the pay slips. In his monthly pay slips it has been recorded that the date of retirement is October, 2007.

Jagannath Thakuria

(Copies of the seven nos. of pay slips are annexed hereto and marked as Annexure-I series).

4.4 That in the month of June, 2007, the applicant visited the HQ, N.E. Railway, Maligaon in order to settle some of his pre- retirement works, he was given to understood that he would be retiring on 31.08.2007 on the basis of his date of birth recorded in the service book which has been 01.09.1947, the concerned dealing clerk revealed that although the date of birth initially recorded as 01.09.1947 in the service book of the applicant appears to have been corrected as 01.11.1947 but the said correction does not bear any signature of the dealing clerk. As such, the applicant was advised to submit an application for correction of his date of birth vis-à-vis the date of retirement on 18.06.2007 praying for correction of his DOB in the office records. It is relevant to mention here that the admit card of his HSLC examination was submitted to the authorities at the time of his initial appointment wherein the age of the applicant as on 01.3.1966 was mentioned as 18 years 4 months. It is on the basis that his actual date of birth works out to be on 01.11.1947 and not on 01.09.1947 as has wrongly been recorded.

4.5 That in response to the application dated 18.06.2007, the respondents vide letter no. CP/EP/J.Thakuria dated 25.06.2007 informed the applicant that the respondent no. 2 desires to verify the original HSLC certificate of the applicant and the applicant was directed to submit his original certificate.

(Copy of letter dated 25.06.2007 is annexed hereto as Annexure- II).

4.6 That the certificate aforesaid having not been readily available with the applicant, the applicant submitted another representation 6.07.2007 sending therewith a fresh copy of the admit card of HSLC examination as proof of his age. But the office of the respondent no. 2 vide his letter dated

Jagannath Thakuria

4

10.07.2007 informed the applicant that the correction of the date of birth of the applicant cannot be agreed to.

Copy of letter dated 10.07.2007 is enclosed herewith
as Annexure- III.

- 4.7 That thereafter the applicant submitted his original certificate of HSLC pass as for the perusal of the authorities. It is relevant to mention here that in the admit card as well as the certificate of HSLC examination, the age of the applicant has been mentioned as 18 years 4 months as on 01.03.1966 and on the basis of date of birth of the applicant comes out to be on 01.11.1947 and consequent date of retirement falls on 31.10.2007 and not 31.08.2007.

Copy of the admit card and HSLC certificate is
annexed as Annexure- IV and V respectively.

- 4.8 That the applicant thereafter submitted another representation dated 10.07.2007 wherein he has been stated that there had been an error in calculating the date of birth from the age mentioned in the admit card and as such the date of birth is erroneously incorporated as 01.09.1947 in the initial RSC application, which ought to have been 01.11.1947 as evident from the HSLC admit card. The relevant admit card was however submitted at the time of initial appointment which indicates the correct date of birth (i.e 01.11.1947) and as such it is clearly evident that the applicant neither suppressed the material fact nor had any evil intention whatsoever. The error so committed was a simple arithmetical error which was inadvertent and unnoticed and is curable. The applicant therefore prayed for correction of his date of birth and the date of retirement which should be 31.10.2007 and not 31.08.2007

Copy of the representation dated 10.07.2007 is
annexed hereto as Annexure- VI.

Jagannath Thakur

- 4.9 That in response of the application to his application dated 10.07.2007, respondent no. 2 issued the impugned letter no. CP/EP/J.N.Thakuria dated 17.08.2007 informed the applicant that the competent authority has not agreed to the alteration of his date of birth originally recorded and as such it has been retained as 01.09.1947 and the date of retirement will be 31.08.2007.

Copy of the impugned letter dated 17.08.2007 is annexed hereto as Annexure- VII.

- 4.10 ~~4.10~~ That the applicant most respectfully begs to state that although an error was committed in respect of the entry of his date of birth in the initial record but the relevant documents pertaining to proof of age was very much available with the authorities. On the basis of those records, the date of birth was corrected in the service book of the applicant but no signature of concerned official was affixed to that correction which was only a technical formality and non observance of such formality by the concerned person should not be construed as incurable mistake, fatal to the cause of the applicant
- 4.11 That the applicant begs to state that the respondent no. 2 was pleased to call for the original pass certificate of the applicant for considering the proposed correction of his date of birth but when the applicant submitted the said certificate as demanded, the correction of date of birth vis-a-vis date of retirement has been denied in spite of authentic documents of proof having been submitted
- 4.12 That the applicant begs to submit further that at the time of his initial appointment, the applicant was ignorant of official procedures and as such he could not contemplate such fatal consequences of an error of this nature in the remote future.

Jagannath Thakuria

- 4.13 That the applicant most respectfully begs to state that he could come to know about the mistaken records only recently when he visited the H.Q.N.F. Railway, Maligaon for attending to some of his pre retirement matters. It is relevant to mention here that the applicant is due to retire on 31.10.2007 (wrongly recorded as on 31.08.2007).
- 4.14 That it is stated that inspite of repeated prayers and even after verification of admit card and HSLC certificate issued by the Board of Secondary Education, Assam the respondents authorities have not taken any steps to cure the defects and as such the date of birth and date of retirement in respect of the applicant have been fixed erroneously giving rise to serious civil consequences. As such finding no other alternative the applicant is approaching this Hon'ble Tribunal for protection of his right and interest and it is a fit case of the Hon'ble Tribunal to interfere with and to protect the rights of the applicant by directing the respondents to correct the date of birth and date of retirement of the applicant as 01.11.1947 and 31.10.2007 respectively in accordance with the age recoded in the admit card and the certificates submitted.
- 4.15 That this application is made bonafide and for the cause of justice.

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

- 5.1 For that, the age recorded in the admit card and certificate of HSLC examination is the legally acceptable basis for determining the correct date of birth of the applicant and as such denial of correction of date of birth of the applicant on that basis is illegal and unreasonable.
- 5.2 For that, the applicant furnished both the admit card and certificate of HSLC examination, wherein the age has been mentioned and the respondents ought to have fixed the DOB of the applicant on that basis.

Jagannath Thakuria

- 5.3 For that, the DOB was recorded initially in the office records/service book of the applicant as 01.09.1947 in place of 01.11.1947 through mistake only which could be cured on the basis of the authentic documents furnished by the applicant.
- 5.4 For that, the applicant submitted representations time and again praying for correction of the erroneous date of birth recorded in his service book and fixing his date of retirement on 31.10.2007 instead of 31.08.2007 on the basis of the HSLC admit card and certificate, which the respondents denied for no reasons.
- 5.5 For that, the date of birth initially recorded in the service book/office records was a simple arithmetical error occasioned by wrong calculation and that being a bonafide mistake is curable and permissible under the law on the basis of documents furnished which are authentic enough to override any mistaken entry.
- 5.6 For that, the applicant being ignorant of official procedures at the time of his initial appointment could not contemplate such fatal consequences of a simple error of this nature in the remote future.
- 5.7 For that, non correction of the mistaken date of birth of the applicant initially recorded in the service records has now resulted into serious civil consequences leading to retirement of the applicant on 31.08.2007 instead of 31.10.2007.
- 5.8 For that, it has been transpired that the correction of date of birth was also done in the service book of the applicant but no signature of the concerned official was affixed thereto, which is technical mistake only and can be cured by the respondents without any impediments whatsoever.
- 5.9 For that, the applicant could come to know about the mistaken entry of his date of birth in the office records only recently when he visited the HQ.

Jagannath Thakur's

N.E. Railway, Maligaon for attending to some of his pre-retirement matters.

- 5.10 For that, in all fitness of the things and in accordance with law, the date of birth and the date of retirement of the applicant deserves to be corrected/refixed as prayed for, on the basis of the admit card and certificates of the HSLC examination, which are the standard authentic documents for determining the age and date of birth on any person.

6. Details of remedies exhausted.

That the applicant declares that he has exhausted all the remedies available to and there is no other alternative remedy than to file this application.

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 Hon'ble Tribunal be pleased to declare that the correct date of birth of the applicant is 01.11.1947 instead of 01.09.1947 and his date of retirement is 31.10.2007 instead of 31.08.2007.

Jagannath Thakur

8.2 That the respondents be directed to correct the mistake entry with regard to the date of birth of the applicant in his service records and enter the date of birth as 01.11.1947 and refix his date of retirement as 31.10.2007 instead of 31.08.2007.

8.3 Costs of the application.

8.4 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 the application, the applicant prays for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to direct the respondents not to give effect to the impugned letter dated 17.08.2007 (Annexure-VII) and allow the applicant to continue in his service after 31.08.2007.

9.2 That the Hon'ble Tribunal be pleased to dispose of this application expeditiously.

10.

11. Particulars of the L.P.O

i)	L.P.O No.	: 32 G 040886
ii)	Date of issue	: 22.8.07.
iii)	Issued from	: G.P.O., Guwahati.
iv)	Payable at	: G.P.O., Guwahati.

12. List of enclosures:
As given in the index.

Jagannath Thakuria

VERIFICATION

I, Smt Jagannath Thakuria, S/o- late Dandiram Thakuria, aged about 60 years, working as Sr. Cashier/NS (Grade-I), Construction/Boibeel, N.E.Railway, Dibrugarh, 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 26th day of August 2007.

Jagannath Thakuria

NORTHEAST FRONTIER RAILWAY, CONSTRUCTION, DIBRUGARH

Sl. No.	Emp. No.	Name	Father's/Husband's Name	Designation	Scale	B.U.C.	Next Incl. Date
7	01850337	SRI J.N. THAKURIA	LATE D.R. THAKURIA	SR. CASH (CONS)	5500-175-9000	0	01/03/2007

Particulars	Rate	Amount	Particulars	Amount
Basic Pay	7940	7940	D.F. Allow	400
D.A.	3475	3475	V.D.F.	1000
D.F. (50% of B.P.)	50	3975	Group Insurance	30
S.C.A.	160	160	Professional Tax	448
H.R.A.	0	0	Post. Adv.	0
T.A.	0	0	House Rent	115
Transport Allowance	0	0	Scooter Adv. Rec	0
Travel Fee	0	0	D.F. Adv. Recd	0
Personal Pay	0	125	Water Charge	10
Conveyance	0	2770	Electricity Adv. Chm	56
Festival Adv. (D.F.)	0	0	Income Tax	0
News Paper Allowance	0	0	Gas Allowance Recd	0
			Ad. Adv. Recd	0
			LIC PR	0
			C.R. Adv.	0
			COSICAL	0
			Other Adv.	0

GROSS PAY	19264.00	TOTAL DEDUCTION	8659.00	Net Pay	10705.00
Date of Payment	October-2007				

SIGNATURE OF THE EMPLOYEE

Attested
M. K. Chakraborty
Advocate

NORTHEAST FRONTIER RAILWAY, CONSTRUCTION, DIBRUGARH

November-2006

Sl. No.	Emp. No.	Name	Father's/Husbands Name	Designation	Scale	B.U.	Next Incr. Date:
7	01850337	SHI J.N. THAKURIA	LATE D.R. THAKURIA	CR (CASH (CONS.))	11,400-15,000	0	01/03/2007

Particulars	Payable	Amount	Deductions	Amount	Particulars	Amount
Basic Pay	7950	7950	P.F. Subs.	994		
D.A.	3458	3458	V.P.F.	7000		
O.P. (50% of B.P.)	50	3975	Group Insurance	30		
S.C.A.	160	160	Professional Tax	448		
H.R.A.		0	Fest. Adv.	0		
T.A.		568	House Rent	118		
Transport Allowance		0	Scooter Adv. Rec.	0		
Personal Pay		120	O.P. Adv. Reco	0		
Contingent		2910	Water Charge	15		
Festival Adv. (O.P.)		0	Electricity Pay. Chrgs	56		
News Paper Allowance		0	Income Tax	0		
			H.B. Advance Reco	0		
			H.B. Intr. Reco	0		
			LIC/DBR	0		
			C.R.B.	0		
			CCS/CAL	0		
			Club Allowance	0		

REMARKS OF THE EMPLOYEE

Gross Pay.	19146.00	Total Deduction	8661.00	Net Pay	10485.00
Date of Retirement	October-2007	IDENTIFIED BY			

NORTHEAST FRONTIER RAILWAY, CONSTRUCTION, DISRUGARRH

Sl. No.	Emp. No.	Name	Father's/Husbands Name	Designation	Scale	Stt	Next Incr. Date:
7	01850337	SRI J.N. THAKURIA	LATE D.R. THAKURIA	SR CASH. (CONS.)	5500-175-9000		10/03/2007
Earnings		Rate	Amount	Deductions		Amount	
Basic Pay	7950	7950	P.F. Subr	994			
D.A.	3458	3458	V.P.F.	7000			
D.P. (50% of B.P.)	50	3975	Group Insurance	30			
S.C.A.	180	180	Professional Tax	684			
H.R.A.		0	Post. Ad.	0			
T.A.		1031	House Rent	115			
Transport Allowance		0	Scouter Adv. Rec	0			
Tuition Fee		0	P.F. Adv. Recd	0			
Personal Pay		125	Water Charge	15			
Contingent		2010	Electricity Pwr. Chrgs	56			
Festival Adv. (D.P.)		0	Income Tax	0			
News Paper Allowance		0	H.B. Advance Reco.	0			
			H.B. Intr Reco	0			
			LIC/DSS	0			
			C.R.B.	0			
			CCS/CAL	0			
			Club Members	0			
Gross Pay: 19709.00				Total Deduction: 8897.00		Net Pay: 10812.00	
Date of Retirement: October-2007				IDENTIFIED BY:		10/10	

NORTHEAST FRONTIER RAILWAY, CONSTRUCTION, DIBRUGARH					SR. AFA/CON/DBRT		February-2007	
Sl. No.	Emp. No.	Name	Father's/Husbands Name	Designation	Scale	B U	Post Incr. Date	
7	01850337	SRI J.N. THAKURIA	LATE D.R. THAKURIA	SR. CASH. (CONS.)	5500-175-8000	2	11/02/2007	
Earnings		Rates	Amount	Deductions	Amount			
Basic Pay		7950	7950	P.F. Subs.	954	H.B. Adv. Reco	0	
D.A.		3458	3458	V.P.F.	7000	UIC/DBRT	0	
D.P. (50% of B.P.)		50	3975	Group Insurance	30	C.R.S.O.	0	
S.C.A.		160	160	Professional Tax	208	COSCAL	0	
H.R.A.			0	Fest. Adv.	0	Income Tax	0	
T.A.			1031	House Rent	110			
Transport Allowance			0	Scooter Adv. Reco	0			
Tuition Fee			0	P.F. Adv. Reco	0			
Personal Pay			125	Water Charge	15			
Contingent			2850	Electricity Pwr. Chrgs.	56			
Festival Adv. (D.P.)			0	H.B. Advance Reco	0			
Gross Pay		19549.00	Total Deduction	6421.00	Net Pay	11128.00		
Date of Retirement		October-2007	IDENTIFIED BY					

SIGNATURE OF THE EMPLOYEE

NORTHEAST FRONTIER RAILWAY, CONSTRUCTION, DIBRUGARH						SR. AFA/CON/DBRT		March-2007			
Sl. No.	Emp. No.	Name	Father's/Husbands Name	Designation	Scale	B.U.	Next Incr. Date:				
1	01850337	SRI J.N. THAKURIA	LATE D.R. THAKURIA	SR. CASH. (CONS.)	5500-175-9000	2	01/03/2007				
Earnings		Rate	Amount	Deductions	Amount	Deductions	Amount	Am. C/S	GEN. info	Deductions	Amount
Basic Pay		8125	8125	P.F. Subs.	1016	H.B. Intr. Reco	0				
D.A.		3535	3535	V P F	7000	LIC/DBRT	0				
D.P. (50% of B.P.)		50	4065	Group Insurance	30	C.R.D.D.	0				
S.C.A.		0	0	Professional Tax	208	CCS/CAL	0				
H.R.A.			0	Fest. Adv.	0	Income Tax	0				
T.A.			1241	House Rent	118						
Transport Allowance			0	Scooter Adv. Rec	0						
Tuition Fee			0	P.F. Adv. Reco	0						
Personal Pay			125	Water Charge	15						
Contingent			2840	Electricity Pwr. Chrgs.	56						
Festival Adv. (D.P.)			0	H.B. Advance Reco.	0						
SIGNATURE OF THE EMPLOYEE											
Gross Pay:		19929.00	Total Deduction	8443.00	Net Pay	11486.00	A/c No.				
Date of Retirement		October-2007	IDENTIFIED BY								

SIGNATURE OF THE EMPLOYEE

NORTHEAST FRONTIER RAILWAY, CONSTRUCTION DIBRUGARH SR. AFA/CON/OBRT

April-2007

CI No.	Emp No.	Name	Father's/Husband's Name	Designation	Scale	B.U.	Next Incr. Date:
111	21850337	SRI J.N. THAKURIA	LATE D.R. THAKURIA	SR. CASH (CONS.)	5500-175-9000	2	01/03/2007

Particulars	Series	Amount	Deductions	Amount	Deductions	Amount	Avl. O/S	GEN	Info	Deductions	Amount
Basic Pay	8125	8125	P.F. Subs	1018	H.B. Intr. Reco	0					
DA	4286	4286	V.P.F.	7000	LIC/OBRT	0					
O.P. (50% of B.P.)	30	4063	Group Insurance	30	C.R.B.D.	0					
SCA	160	160	Professional Tax	208	CCS/CAL	0					
House Rent		2163	Fest. Adv	0	Income Tax	0					
TA		673	House Rent	118							
Transport Allowance		180	Shooter Adv. Rec	0							
Tuition Fee		0	P.F. Adv. Reco	0							
Personal Pay		125	Water Charge	15							
Contingent		1630	Electricity Pay (Clings)	173							
Festival Adv. (O.P.)		0	H.B. Advance Reco	0							

SIGNATURE OF THE EMPLOYEE

Gross Pay	22365.00	Total Deduction	8560.00	Net Pay	13805.00
Date of Retirement	October-2007	IDENTIFIED BY			

A/c No

NORTHEAST FRONTIER RAILWAY, CONSTRUCTION, DIBRUGARH				SR. AFA/CON/DBRT		May-2007							
Sl. No	Emp. No.	Name	Father's/Husbands Name	Designation	Scale	B.U	Next Incr. Date						
1	01850337	SRI J.N.L THAKURIA	LATE D.R THAKURIA	SR. CASH. (CONS)	6500-175-9000	2	01/03/2007						
Earnings		Basic	Amount	Deductions		Amount	Deductions		Amount	Amnt. O/S		GEN	Info
Basic Pay		8125	8125	P.F. Subs.		1016	H.B. Intr. Reco		0				
D.A.		4266	4266	V.P.F.		7000	LIC/DBRT		0				
D.P. (50% of B.P.)		50	4063	Group Insurance		30	C.R.B.D		0				
S.C.A.		180	180	Professional Tax		208	CCS/CAL		0				
H.R.A.			0	Fest. Adv.		0	Income Tax		0				
T.A.			821	House Rent		118							
Transport Allowance			0	Scooter Adv. Rec		0							
Tuition Fee			0	P.F. Adv. Reco		0							
Personal Pay			125	Water Charge		15							
Contingent			2780	Electricity Pwr. Chrgs.		171							
Festival Adv. (D.P.)			0	H.B. Advance Reco		0							
Gross Pay		20340.00	Total Deduction :	8558.00		Net Pay	11782.00						Ar. No.
Date of Retirement		October-2007			IDENTIFIED BY								

Attested
 (M) hulu
 Adv. Cate.

NO:- CP/EP/1. Chakuria.

Dated 25/6/07.

To,
Sri J. Chakuria.
Sr. Engineer/Con.
DMRT.

Sub:- Correction of date of
retirement in official
records.

In reference to your letter
dated 18-6-07, on the above subject.
CP/EP/148 has wanted to verify the
original HSLC Certificate issued by
Board of Secondary Education, Assam.

You are therefore requested
to please submit same at the earliest.

Attested
By
Advocate.

Phoral
Sr. AFA/12P.

H. F. Railway.

Office of the
Dy. Chief Accounts Officer (C&P),
H. F. Railway/Maligaon.

NO. CP/E/T. Thakuria.

Date: 10.7.07.

To
Sri J. Thakuria,
Sr. Cashier/Co/MDR.

Sub:- Correction of Date of
retirement in official
records.

Ref:- Your application dated 6.7.07.

....

CPD/A has not agreed to your application
dated 6.7.07 mentioned under reference above.

CPD/A has given his observation as under:-

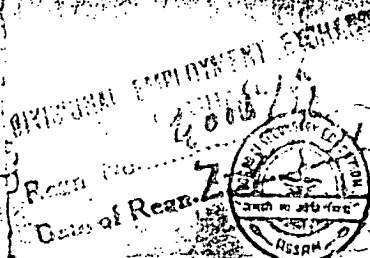
" the candidate is a matriculate and he has
clearly mentioned his DOB as 1.9.47 in his
RRB (then RSC) application form as well as
in the attestation form. On the first page
of service record also his DOB is recorded
as 1.9.47 and he has signed on it. Now, asking
for change in DOB on the basis of same calculation
can not be agreed to ".

Attested
M. J. Thakuria
Advocate

[Signature]
10/7/07
Sr. AFA/C&P),
H. F. Railway/Maligaon.

OFFICE No. 5854

Form No. 20



Board of Secondary Education, Assam

ADMIT

Jugannath Thakuria

Roll

No.

3218

To the High School Leaving Certificate Examination to
commence on Monday, the 14th March, 1966. His/Her age on the
1st of March, 1966 will be 18 Years 4

Months Days.

Note—Hours of Examination

Morning—From 9 a. m. to 12 noon

Afternoon—From 1-30 p. m. to 4-30 p. m.

Counter signed

Officer-in-charge

Asstt. Officer-in-charge

Office Seal

Sd/. K. C. Deka,

Sd/. K. C. Deka,

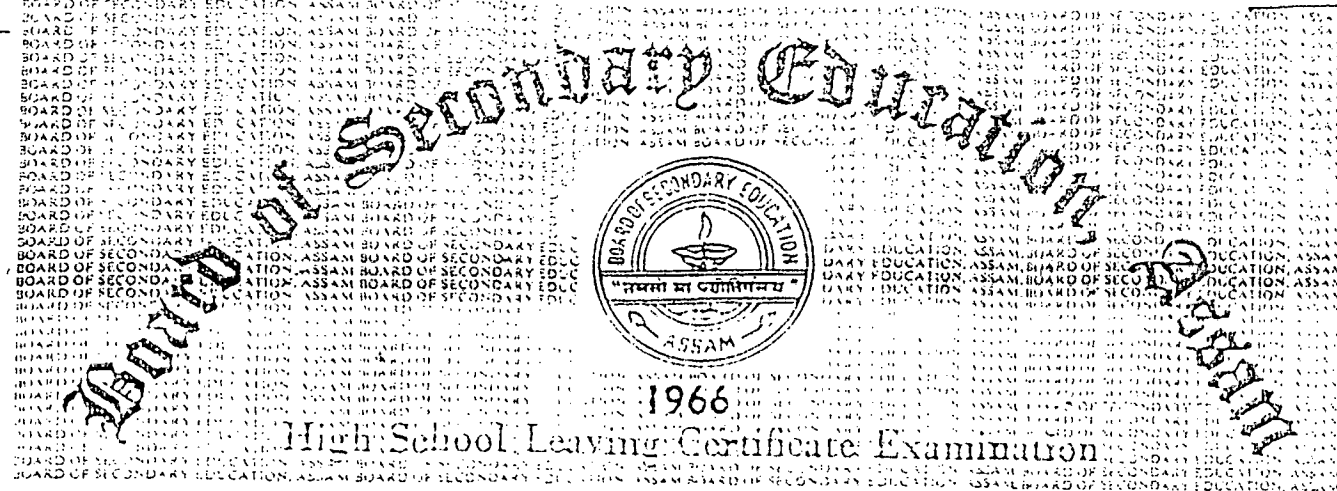
Controller of Examinations,

Board of Secondary Education, Assam.

Attested
Chanda
Advocate

1966.03.01
18.04.08
1947.10.23

1-9-47



DUPLICATE

I Certify that Jagannath Thakuria
 Roll No. 3218 aged 18 years 4 months 18 days
 on the First of March, 1966, duly passed the High School Leaving
 Certificate Examination, 1966, of this Board, and was placed in the
Third Division.

Attested
 by
 Advocate

GAUHATI, ASSAM

The 11th June, 1966

M. 20th July, 1967

SECRETARY

To
The FA & CAO/MIG,
M.F.Railway.

(Through proper channel)

Sub:- Correction of Date of
retirement in official
record.

Ref:- Sr. AFA/O&P's letter NO. CP/B/
J. Tinkuria dated 10.7.07.

....

Sir,

With due respect I beg to state that the date of my retirement w.e.f. 31.8.07 as fixed by the office DY.CAO(O&P) was found to be not in order as the same did not tally with the age mentioned in my admit card for BSLC examination. The age as recorded in my admit card is 18 yrs. 4 months as on 1.3.06 on the basis of which the date of birth is 1.11.47. On the basis of this calculation my date of retirement should be 31.10.07 not 31.8.07.

As per my application dated 18.6.07 and 6.7.07 addressed to DY.CAO(O&P) I wanted to get the date of retirement corrected as 31.10.07 instead of 31.8.07; CPD/A, as communicated vide letter mentioned under reference has expressed his disagreement to change the DOB.

In view of the above, I would like to reiterate that though there was an error in the calculation of DOB initially, at the time of appointment, the supporting certificates which were also made available speak of the DOB as 1.11.47 not 1.9.47. Moreover, the recording of age at matriculation by the undersigned in the RSC application form was correctly made as 18 yrs. 4 months as on 1.3.06, which should have been verified before fixing the date of my retirement. There was no malafide intention on my part in recording the DOB as 1.9.47. It was just an error in calculation which can be set right at a later date on the basis of the supporting certificate.

I therefore request your kind honour to appreciate the matter in real perspective and arrange for the change of my date of retirement as 31.10.07 instead of 31.8.07.

Attested
Advocate

yours faithfully,

Jagannath Thakuric

CC/CPD/DPRT

1077/07

Office of the
Dy. CAO (Cash & Pay)
N.F. Railway, Maligaon.

NO. CP/EP/J.N. Thakuria

Dated: 17-8-07.

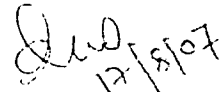
To
Shri J.N. Thakuria,
Sr. Cashier/NS(Gr-I),
Bogibeel/Con/DBRT,
N.F. Railway.

Sub: Correction of date of retirement in official record.

Ref: Your application dt. 10-7-07 addressed to
FA & CAO/Maligaon.


With reference to your application mentioned above, it is to inform that competent authority has not agreed to the alteration of your date of birth recorded by you in the application form submitted to the then RSC.

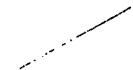
As such, your date of birth has been retained as 1-9-47 as recorded by you and as a result, you are going to retire on 31-8-07 on superannuation. You are, therefore, advised to submit necessary booklet "A" duly filled in, in duplicate immediately for further necessary action for your retirement in time.

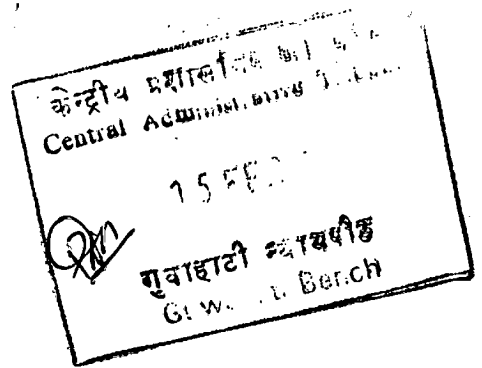

Dy. CAO (C&P)
N.F. Railway, Maligaon.

Copy for information & necessary action to:

- (1) WAO/DBRT
- (2) Divl. Cashier/TSK.

Attested

Advocate


Dy. CAO (C&P)
N.F. Railway, Maligaon.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A.239...../2007

Shri J. Thakuria

- V -

U.O.I & ORS

INDEX

<u>Contents</u>	<u>Page No.</u>
(1) Written Statement	3
(2) Verification	4
(3) Annexure R 1	5
(4) Annexure R 2	7

Filed by

Advocate

GENERAL ADMINISTRATIVE BRANCH
 WASHINGTON, D.C.

2007

2007

-

101-0000

INDEX

Page No.

Page No.

(1) 101-0000

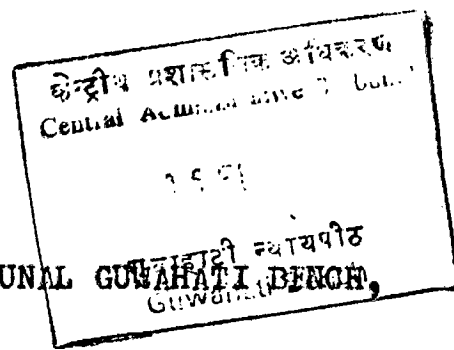
(2) 101-0000

(3) 101-0000

(4) 101-0000

101-0000

101-0000



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH,
GUWAHATI.

O. A. No. 239/2007

Shri Jagannath Thakuria

Vs.

U. O. I & Anr.

Filed by the respondent
through Dr. J. L. Sarker
S.C. Railways
for Dr. O. P. Sarker

Written statement filed on behalf of respondent
Nos. 1 and 2.

The respondents respectfully beg to state as
under :

1. That the respondents have gone through the O.A. and
understood the contents thereof.

2. The applicant is High School Leaving Certificate
Examination (HSLC) qualified employee. He passed the said
examination in the year 1966. He joined the N. F. Railway
service on 17.01.1975, when the original HSLC examination
was with him. He declared his date of birth as 01.09.47
and signed the relevant service records. He submitted
application for alteration of date of birth for the first
time on 18.6.2007. His date of retirement on superannuation
(60 years of age.) is 31.08.2007. He submitted application
for alteration of date of birth after more than 32 years
and before only about 2 and half months of retirement. The
O.A. is barred by limitation. The correctness of the state-
ments in para 3 of the O.A. is denied.

Dr. CAOC & P
N. F. Railway,
Maligaon, Ghy-II

Received
on 07/02/08
Dr. O. P. Sarker

1588

गुवाहाटी न्यायपीठ
Guwahati Bench

The O.A. is also barred by the law under para 225 of the Indian Railway Establishment Code-Vol. I.

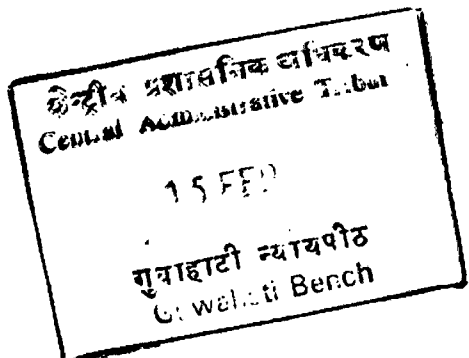
The applicant has not given any explanation as to why he declared his date of birth as 01.09.1947 when the HSLC Certificate was with him.

Copy of the Rule in para 225 of IRIC is enclosed as Annexure -R-1.

3. That the Date of Birth was recorded by the applicant under his Signature at the time of initial entry into service as 01.09.47. The Date of Birth recorded by the applicant himself can not be altered without due process of relevant codal provisions as mentioned in para 2 above. Until a few months before retirement the applicant never disputed with his personal testimony nor applied for the alteration of the Date of Birth. However, an unauthorised correction in the front end appears to have been managed somehow at his place of work without correcting the basic records with his recruiting authorities, who correctly indicated his Date of Retirement as 31.08.07 based on his original records. The reflection of the Date of Retirement as 31.10.07 on the Pay Slip is no authority for date of birth, and is an error due to personal declaration of the staff concerned at out station i.e. Pay Office/Dibrugarh at the time of computerization of the master data without making inquiry of his Date of Birth as per records of service. The Date of Birth depends upon the original entry on record and accordingly

Dr. CAO/C & P
N. F. Railway
M. F. Railway

1973 07.01
25.06.00
48 31.53



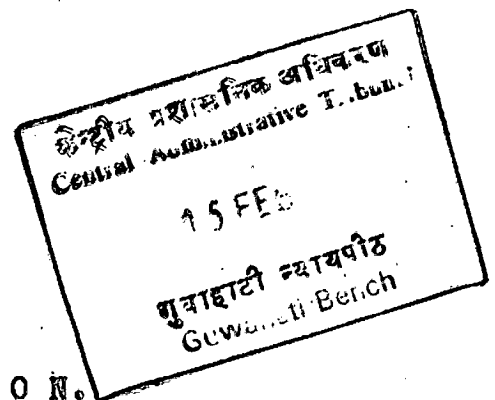
his retirement on 31.08.07 was correctly made based on the above noted circumstances.

Copy of letter dated 01.08.07 from GM(P)'s office is enclosed as Annexure- R-2.

The application dated 18.06.07 was received from the applicant praying for alteration of his Date of Birth formally in the office records. The said application was considered with reference to Rules and records and it has been decided that the date of birth cannot be altered at this far end of service.

4. That alleged ignorance about personal bio-data is not a sufficient reason for violating the standing Govt. rules, and for alteration of date of birth recorded following procedure. It is not a case of ignorance of Rule. The alteration of the Date of Birth, furnished by the applicant who is a literate staff is not tenable at this stage under the extant rules mentioned in the forgoing paras. He has already retired w.e.f 31.8.2007. The applicant is liable to be prosecuted for Disciplinary action for unauthorised writing of date of birth in office record.


5. That it is stated that it is not a case of clerical error or mistake, but a case of declaration of date of birth by the applicant himself formally. Under the circumstances the O.A. deserves to be dismissed with cost.



VERIFICATION.

I, Dwijendra Nath Sarma, son of
Late Harendra Nath Sarma, aged about 52 yrs
years, working as Dy. Chief Accounts Officer do hereby
say that I am conversant with the facts of the case,
and have been authorised by respondent No. 1
to verify and sign this verification. Accordingly I
verify that the statements in paragraphs 1 to 5
are true to my knowledge and that I have not suppressed
any material facts.

I sign this verification this 01 day of Feb.
, 2008 at Guwahati


Signature.
Dy. CAO/C & P
N. F. Railway,
Guwahati-11

Chapter 2]

GENERAL CONDITIONS OF SERVICE

should not be informed of the reasons which led the Board or Officer to recommend disqualification. This procedure should be carefully observed.

2. In cases, however, where a Medical Officer or a Medical Board considers that minor disability disqualifying a candidate for railway service can be cured by treatment (Medical or Surgical) a statement to that effect is recorded by the Medical Officer or the Medical Board, as the case may be. There is no objection to a candidate being informed of the Medical opinion to this effect by the Administration and when a cure has been effected it will be open to the Administration to ask for another medical examination.

223. First-aid.—The railway servants in categories which the General Manager may prescribe, will, in addition, be required to acquire an approved certificate of competency in First Aid. They will keep their knowledge in First Aid alive during the entire period of their service through refresher courses at intervals that may be prescribed from time to time.

224. Service Agreements.—Special Class Apprentices on Railways shall be required to execute a service agreement with the President at the time of his appointment as a Probationer in IRSME. Railway servants appointed for a limited period may also be required to execute an agreement. All agreements shall be stamped, the cost being borne by the railway servant concerned.

Note.—In the case of all railway servants the offers of appointment should stipulate inter alia that in all matters not specifically provided herein, or in the recruitment rules, they will be governed by the provisions of the Indian Railway Codes and other extant orders as amended/issued from time to time.

225. Date of birth.—(1) Every person, on entering railway service, shall declare his date of birth which shall not differ from any declaration expressed or implied for any public purpose before entering railway service. In the case of literate staff, the date of birth shall be entered in the record of service in the railway servant's own handwriting. In the case of illiterate staff, the declared date of birth shall be recorded by a senior railway servant and witnessed by another railway servant.

(2) A person who is not able to declare his age should not be appointed to railway service.

(3) (a) When a person entering service is unable to give his date of birth but gives his age, he should be assumed to have completed the stated age on the date of attestation, e.g. if a person enters service on 1st January, 1980 and if on that date his age was stated to be 18, his date of birth should be taken as 1st January, 1962.

(b) When the year or year and month of birth are known but not the exact date, the 1st July or 16th of that month, respectively, shall be treated as the date of birth.

श्री २२५ शासक अधिकरण
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
C. W. Bench

Attested.
R. Phand
61.02.68
Sr. AFA (Cash & Pay)
N. F. Bly/Mangson

(6)

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Officer

15 FEB

Ammanre - 1

(24)

गुवाहाटी न्यायपीठ

Belah

Chapter 2]

GENERAL CONDITIONS OF SERVICE

[225-227

(4) The date of birth as recorded in accordance with these rules shall be held to be binding and no alteration of such date shall ordinarily be permitted subsequently. It shall, however, be open to the President in the case of a Group A & B railway servant, and a General Manager in the case of a Group C & D railway servant to cause the date of birth to be altered

- (i) where in his opinion it had been falsely stated by the railway servant to obtain an advantage otherwise inadmissible, provided that such alteration shall not result in the railway servant being retained in service longer than if the alteration had not been made, or
- (ii) where, in the case of illiterate staff, the General Manager is satisfied that a clerical error has occurred, or
- (iii) Where a satisfactory explanation (which should not be entertained after completion of the probation period or three years service, whichever is earlier) of the circumstances in which the wrong date came to be entered is furnished by the railway servant concerned, together with the statement of any previous attempts made to have the record amended.

Railway Ministry's decision.—(a) when a candidate declares his date of birth he should produce documentary evidence such as a Matriculation certificate or a Municipal birth certificate. If he is not able to produce such an evidence he should be asked to produce any other authenticated documentary evidence to the satisfaction of the appointing authority. Such authenticated documentary evidence could be the School Leaving Certificate, a Baptismal Certificate in original or some other reliable document. Horoscope should not be accepted as an evidence in support of the declaration of age.

(b) If he could not produce any authority in accordance with (a) above he should be asked to produce an affidavit in support of the declaration of age.

(c) In the case of Group D employees care should be taken to see that the date of birth as declared on entering regular Group D service is not different from any declaration expressed or implied, given earlier at the time of employment as a casual labourer or as a substitute.

226. Transfers.—Ordinarily, a railway servant shall be employed throughout his service on the railway or railway establishment to which he is posted on first appointment and shall have no claim as of right for transfer to another railway or another establishment. In the exigencies of service, however, it shall be open to the President to transfer the railway servant to any other department or railway or railway establishment including a project in or out of India. In regard to Group C and Group D railway servants, the power of the President under this rule in respect of transfer, within India, may be exercised by the General Manager or by a lower authority to whom the power may be re-delegated.

Railway Ministry's decision.—Requests from railway servants in Groups C & D for transfer from one railway to another on grounds of special cases of hardships may be considered favourably by the railway administration. Such staff transferred at their request from one railway to another shall be placed in the grade in the promotion group in the new establishment existing on the date of confirmation or re-employment.

ve. E.55 SR/6/6/3 dt. 19th May, 1955.)

227. (a) A competent authority may transfer a railway servant from one post to another provided that—

- (i) on account of inefficiency or misbehaviour or

Attested.
A. Phosal
01.02.08
Sr. AFA (Cash & Pay)
N. F. Bly/Maligaon (Railway Min.)

(7)

NORTHEAST FRONTIER RAILWAY

No.E/207/PN(W)FLV1

To

FA&CAO, CPO, Pr.CE/MLG, CSTE/MLG, CWM/DBWS,
Dy.CPO/G, Dy.CMM/PNO, Dy.CAO(C&P)/MLG,
APO/M, APO/DBWS.



Sub:- Top Priority Final Settlement cases for the Month of August - 2007.

The list of retiree officer/ staff who will retire from service on superannuation on 31.08.2007 for Hd. Qrs. unit is as under :-

S/N	Name	Designation	Working under	PF No.
1.	Sri A.K. Roy	SPO/W	CPO/MLG	01856790
2.	Sri B.K. Thakur	AWM/DBWS	CWM/DBWS	2004975
3.	Sri S.N. Saha	SSE/P Way	Pr.CE/MLG	04013608
4.	Sri Ajit Majumder	Turner/I	WRS/PNO	01788449
5.	Sri J.N. Thakuria	Sr. Cashier/I	Dy.CAO(C&P)/MLG	
6.	Sri Kailash Pandey	Jr. Clerk/E	CPO/MLG	01837709
7.	Sri Biplab Kr. Mazumder	KI IRE	Dy.CMM/PNO	01874007
8.	Smt. Tuni Bala Deka Raja	Record Sorter	CSTE/MLG	01910097

You are, therefore, requested to process their final settlement cases right from now. The P/Case, Service Book along with **Pension Booklet should be submitted to Accounts department on or before 10th of this month** & any error detected will be corrected by 15th of this month for arranging timely payment.

The concerned staff may also be advised to obtain R.E.L.H.S. forms and Pensioners' Identity cum Service Certificate. Respective FS dealers are requested to issue the Pensioners' Identity cum Service Certificate and submit the same to SW/FS/HQ before retirement.

MD/CH/MLG, CVO and respective Controlling Officer of the retirees may kindly issue clearance certificates in respect of Rly.Qrs.Vacation, I/Cards, Medical Card, Card Passes and telephone assets etc. before hand so that Retirement Gratuity may be released in time.

(A.K. ROY)

Sr. Personnel Officer (W)
for General Manager (P)/MLG

- Copy to:-
1. Sr.SU/PE & Pension/MLG- For information and necessary action please.
 2. OS/Bill- He is requested to prepare the Leave Salary Bill.
 3. Chief OS/FS/MLG.

Attended
Phasal
01/02/08
Sr. AFA (Cash & Pay)
N. F. Rly/Maligaon

for General Manager (P)/MLG

Chis Ahmed

C

Recd on 17.8.07
C/O 20/8/07
Pl arrange immediately
entire Staff due. 17/8