

Central Administrative Tribunal
Jabalpur Bench

OA No.185/05

Indore, this the 18th day of August, 2005.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman

Hon'ble Mr.Madan Mohan, Judicial Member

Charan Lal Patel
Son of Shri Jeevan Lal Patel
Retired Mechanist (Skilled)
Vehicle Factory, Jabalpur
R/o Village Pindrai
Tehsil and Dist.Jabalpur.

Applicant

(By advocate Shri S.D.Gupta on behalf of
Shri R.L.Gupta)

Versus

1. Union of India through
Secretary
Ministry of Defence
New Delhi.

2. General Manager
Vehicle Factory
Jabalpur.

Respondents

(By advocate Shri S.A.Dharmadhikari)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following directions:

- (i) To direct the respondents to treat the applicant as retired w.e.f 6.12.2003, the date on which he completed his age of superannuation and for that period i.e. 28.2.2003 to 6.12.2003, he be given salary with all serviced benefits.
- (ii) Direct the respondents to settle all the retiral claims of the applicant.
- (iii) Direct the respondents to fix the pension of the applicant on the salary, which was due to the applicant on 6.12.2003.



2. The brief facts of the case are the applicant who served the department for 40 years was retired from service on 28.2.2003 by the respondents illegally treating the wrong date of birth of the applicant. As per Annexure A1 school certificate, the correct date of birth of the applicant is 6.12.1943. In the records of the respondents also, the date of birth of the applicant is recorded as 6.12.1943. In view of this, the actual retirement date of the applicant is 6.12.2003 but the respondents without any reason retired the applicant w.e.f 28.2.2003, which is illegal. After retirement, the applicant submitted representations to the respondents to permit him to continue in service or to give the entire benefits of the said period but the respondents have not taken any action. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant has filed Annexure A1 which is a certificate dated 13.3.2003 issued from the concerned Government Higher Secondary School, Thevar, Distt. Jabalpur. In this certificate, the date of birth of the applicant is mentioned as 6.12.1943. The learned counsel has drawn our attention to a pay slip Annexure A2 in which his date of birth is mentioned as 6.12.1943. He has also drawn our attention to Annexure R-1, in which also the date of birth of the applicant is mentioned as 6.12.1943. The respondents have not considered these facts about the correct date of birth of the applicant and they have arbitrarily and illegally retired the applicant from service much earlier on 28.2.2003 than the due date i.e. 6.12.2003. The respondents have not stated that the school certificate Annexure A1 filed by the applicant is a forged one. Hence the applicant is legally entitled for the reliefs claimed.

4. In reply, learned counsel for the respondents argued that the applicant remained at Ordnance Factory, Khamaria, Jabalpur from 22.11.1962 to 19.7.1975. Subsequently he was transferred to Vehicle Factory, Jabalpur on 20.7.1975. While auditing the service book of the incumbents due for retirement during the year 2003, the Local Accounts Officer had raised observation that as per the entries made



in the Medical Examination Report of the Workman record of service of the applicant against column (i) from statement the Medical Officer has recorded his age as 28 years and (ii) from appearance the Medical Officer has recorded his age as 30 years on 19.11.1962. Accordingly, the date of birth of the applicant would be 19.11.1932 and he would have retired from service w.e.f 30.11.1992 on completion of 60 years of age. The applicant has overstayed in service for more than 10 years beyond his retirement date. Learned counsel for the respondents has drawn our attention to Annexure R2 letter dated 18.2.2003 and argued that the applicant has filed Annexure A1 school certificate after his retirement on 13.3.2003. Hence at this stage it cannot be relied upon at all. The learned counsel further argued that regarding any controversy on the date of birth of the applicant, he should have raised this question within five years from the date of joining the service but the applicant never raised this question and at this stage he cannot agitate this point. Hence the OA deserves to be dismissed.

5. After hearing the learned counsel for both parties and carefully perusing the records, we find that the applicant did not file the alleged school certificate dated 13.3.2003 at any earlier stage while he was retired from service on 28.2.2003. He has not shown any reason for not submitting the document earlier in support of his case. We have perused Annexure R2 dated 18.2.2003 in which it is mentioned that while verifying 25 years of service in respect of the applicant, it is observed that the date of birth (age) certified by the doctor is 30 years as on 19.11.1962 as per workman's certificate record of service and medical certificate separately issued. The date of birth of the applicant works out to 19.11.1932 and the date 6.12.1943 alleged by the applicant is wrongly mentioned. We have perused 2004 SCC (L&S) 469 in the case of State of Punjab and others Vs. S.C.Chadha in which the Hon'ble Supreme Court has held that "Date of birth – Correction of – Rules or administrative instructions prescribing the manner of, the procedure and the limitation period for, seeking correction of the recorded date of birth – The sole object of such rules



6. Considering all facts and circumstances of the case, we find that the OA has no merit. Accordingly, the OA is dismissed. No costs.

(M.P. Singh)
Vice Chairman

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पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि आवे मिल:-

- (1) सचिव, उच्च न्यायालय, जयपुर
 - (2) आवेदन शी/बीमा/कु के कारगल
 - (3) प्रत्यक्षी शी/बीमा/कु के कारगल
 - (4) मंत्रपाल, के.आ., जयपुर
- सकल एवं आवश्यक कार्यवाही हेतु

उष रजिस्ट्रार

~~Final~~
~~20/8/05~~