

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR**

Original Applications No 495 of 2005

Jabalpur, this the ~~4th~~^{5th} day of ~~October~~^{October} 2005.

Hon'ble Mr. Madan Mohan, Judicial Member

Halku Ram Yadav
S/o Late H.L. Yadav
R/o - 111/4, CIAE Colony,
Navi Bagh Colony,
Bairsaiya Road, Bhopal

Applicant

(By Advocate - Shri S.Paul)

VERSUS

1. The Secretary,
Indian Council of Agricultural Research,
Krishi Bhawan, Room No.106, New Delhi.
2. Director,
Central Insititute of Agricultural,
Engineering, Naibagh, Berasiya Road,
Bhopal.
3. The Senior Administrative Officer
Central Institute of Agricultral,
Engineering, Naibagh, Berasia
Road, Bhopal.

Respondents

(By Advocate - Shri Harshit Patel on behalf of Shri S.C. sharma)

ORDER

By Madan Mohan, Judicial Member -

By filing this Original Application, the applicant has sought the following main reliefs :-

"(ii) Set aside the order dated 19.4.2005 Annexure-A-1 and the retirement notice dated 16.4.2005 Annexure-A-2.

(iii) Direct the respondents to treat the date of birth of the applicant as 2.3.1947 for all practical purposes."



2. The brief facts of the case are that the applicant was initially appointed on 8.9.1962 in Army Medical Corp as Driver and he retired from army service on 30.9.1977. Thereafter he was appointed on the post of Driver on 17.2.1979. According to the applicant at the time of initial appointment his date of birth was recorded as 2.3.1947 on the basis of transfer certificate of VI Class. The applicant appeared in the higher secondary examination in 1984 and in the mark sheet of higher secondary examination Annexure-A-3 his date of birth is recorded as 2.3.1947. However, he was issued a memo dated 16.4.2005 whereby the applicant was intimated that he will be retired from service on 30.9.2005. Thereafter he was issued an order dated 19.4.2005 whereby his date of birth has been changed as 8.9.1945 in place of 2.3.1947 in the service record. Hence, this OA.

3. Heard the learned counsel for the parties, and carefully perused the records.

4. The learned counsel for the applicant has stated that after the retirement of the applicant from military service he was appointed as Driver on 17.2.1979 under the respondents department and on the basis of transfer certificate of class 6th his date of birth was recorded as 2.3.1947 and the same date is mentioned in the mark sheet of higher secondary examination. He also argued that the respondents have issued a letter dated 6.9.1999 (Annexure-A-5) whereby the applicant was directed to clarify that how his date of birth has been mentioned as 2.3.1947 in the respondent department though his date of birth was recorded in the military service record as 8.9.1945. Thereafter, he clarified the question of date of birth and submitted his mark sheet of higher secondary examination wherein the date of birth is mentioned as 2.3.1947. In support of his claim the learned counsel for the applicant has relied upon the judgement of Hon'ble Supreme Court in the case of Union of India Vs. Harnam Singh, (1993) 2 SCC 162 and the judgment of Hon'ble High Court of M.P. in the case



of S.C.Verma Vs. UOI & Anr., 2000 (4) MPHT 384. The learned counsel for the applicant further argued that the applicant has clarified his date of birth as 2.3.1947. However, the respondents are retiring him from service w.e.f. 30.9.2005. Hence, the action of the respondents is totally illegal and unjustified.

5. In reply the learned counsel for the respondents argued that the applicant had joined the military service on 8.9.1962 and served there up to 30.9.1977. Thereafter he was appointed as Driver in the respondents department on 17.2.1979. The applicant had several occasions and opportunities to inspect his date of birth during the 15 years of service, but he did not make any effort to correct his date of birth in the military department. So far as the transfer certificate of class 6th and the mark sheet of higher secondary examination is concerned as 2.3.1947 might have been in possession in the applicant even before joining the military services. The learned counsel for the respondents further argued that the decision relied by the applicant in the case of Harnam Singh (*supra*) is not applicable in this case because the appeal of the Union of India is allowed by the Hon'ble Supreme Court.

6. After hearing the learned counsel for the parties and on careful perusal of the records, I find that the applicant joined the army service on 8.9.1962 and retired on 30.9.1977. During this period the applicant did not make any effort to correct his date of birth. At that time the transfer certificate of 6th class might have been in his possession and during this period he could have easily corrected his date of birth. After retirement from the military service, the applicant was appointed as Driver in the respondents department on 17.2.1979 and he has mentioned his date of birth as 2.3.1947 whereas in his military discharge certificate, the date of birth is mentioned as 8.9.45. The respondents have issued a memo dated 6.9.99 (Annexure-A-5) to the applicant whereby the applicant was directed to explain about



variation of his date of birth which is mentioned in the service book as 2.3.47 but in the military discharge certificate is mentioned as 8.9.1945. We have perused the attestation form of the applicant dated 15.2.1979 which was filled by the applicant himself. On this document I find that the date of birth of the applicant is mentioned as 8.9.1945. I have perused the judgement of Hon'ble Supreme court in the case of State of Punjab and Others Vs. S.C.Chadha, 2004 SCC(L&S) 469, wherein it has been held that "[D]ate 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 or administrative instructions, held, is that claims for correction should not be made after decades, especially on the eve of superannuation – Age." I have also perused the judgment of Hon'ble Supreme Court in the case of U.P. Madhyamik Shiksha Parishad & Ors. Vs. Raj Kumar Agnihotri, 2005(4) SCALE 284 in which the claim for correction in the date of birth has been rejected and the judgement of Hon'ble Supreme Court in the case of Harnam Singh (supra) has been discussed.

7. Considering all the facts and circumstances of the case and in view of the above judgments of Hon'ble Supreme Court I am of the considered opinion that this OA is liable to be dismissed. Accordingly, the same is dismissed. No costs.

(Madan Mohan)
Judicial Member

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