

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH

OA No. 169/04

*At Jabalpur* this the 8<sup>th</sup> day of December, 2004

CORM

Hon'ble Mr.M.P.Singh, Vice Chairman  
Hon'ble Mr.Madan Mohan, Judicial Member

Sukhdev Bihari Tiwari  
S/o Shri Jag Prasad Tiwari  
R/o Brijpur, Tehsil &  
District, Panna (M.P.)

Applicant

(By advocate Ku.M.Dadariya)

Versus

1. Union of India through  
Secretary  
Department of Posts & Communication  
New Delhi.
2. The Superintendent of Post Offices  
Chhatarpur Division.
3. Asst.Suptd. of Post Offices  
Panna Sub Division  
Panna (M.P.)

Respondents

(By advocate Shri Gopi Chaurasia for Sh.  
S.A.Dharmadhikari)

ORDER

By Madan Mohan, Judicial Member

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

- (i) Quash the impugned order dated 14.1.2004 (Annexure A1) and direct the respondents to reinstate the applicant in service immediately, treating his date of birth as 1.6.45 and directing them to retire the applicant on attaining the age of superannuation i.e in June 2010.

*(Signature)*

(ii) Direct the respondents to make payment of arrears of salary along with interest w.e.f. January 2004 till his reinstatement along with all consequential benefits.

2. The brief facts of the case are that the applicant who passed 8<sup>th</sup> class was initially appointed on 19.7.59 as Branch Post Master, Brijpur. As per his school leaving certificate, his date of birth is 1.6.1945. In all inspection reports as also in the service book register, the applicant's date of birth is recorded as 1.6.1945. In the year 1990, for the first time, the applicant was directed to file original certificate relating to his date of birth. Pursuant to this order, the applicant submitted the original certificate relating to his date of birth on 24.3.90. The applicant was allowed to work thereafter. In the year 1997, respondent No.2 issued an order directing to retire the applicant on 28.2.97. The applicant made a representation, filing all the certificates relating to his date of birth, stating that he should be retired on 1.6.2010 instead of 28.2.97. On representation of the applicant, respondent No.2 withdrew his order dated 3.1.97, on 24.2.97. However, the applicant was served with impugned order dated 14.1.2004 treating his date of birth as 1.3.1932 and on that basis, he was prematurely retired. There was no reason and justification to issue the impugned order dated 14.1.2004. The applicant submitted a representation dated 23.1.04 (Annexure A12) for cancellation of the aforesaid order but the respondents did not care to decide the same. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant had filed his school leaving certificate Annexure A8 in which his date of birth is recorded as 1.6.1945. This is the most authentic document relating to his date of birth. The applicant



continued to work under the respondents from the year 1959 to 1990 when for the first time the respondents asked the applicant to submit the original certificate about his date of birth and even though the applicant had submitted the original certificate of his date of birth, the applicant was ordered to be retired by order dated 3.1.97. However, subsequently this order was withdrawn by another order dated 24.2.97 (Annexure A7). By impugned order dated 14.1.2004 the services of the applicant were dispensed with without affording him an opportunity of hearing. There was no justification at all to disbelieve the date of birth of the applicant as 1.6.1945.

4. In reply, the learned counsel for the respondents argued that the applicant was appointed as EDBPM, Brijpur (Panna) on 19.7.59 and his date of birth at the time of appointment was recorded as 1.3.1932 as declared by the applicant himself. The same date of birth is recorded in the gradation list circulated by the respondent office from time to time. The applicant was intimated by letter dated 13.3.90 (Annexure R3) that he had been working w.e.f. 19.7.59 but no proof of age was available in the office records. Thereupon, the applicant submitted a duplicate T.C. on 19.3.90 issued by the Principal, Govt.High School, Brijpur on 28.1.87. If the date of birth as claimed by the applicant is accepted, then on the date of his appointment i.e. 19.7.59, his age was only 14 years while the minimum age prescribed for entry into government service is 18 years. The applicant had submitted his representation dated 11.2.97 (Annexure R5) for the first time saying that his date of birth is 1.6.45. The date of birth of the applicant was changed erroneously on 24.2.97 (Annexure R6)

by the then SPOs Chhatarpur canceling the retirement order dated 3.1.97 without obtaining prior approval of the Head of Deptt. Who is competent to entertain belated claim for alteration of date of birth. The learned counsel has drawn our attention to Annexure R1 gradation list in which the applicant's date of birth is mentioned as 1.3.1932. So far as the school leaving certificate (Annexure A8) is concerned, it is issued on 13.1.97 and this is also not the original document while the applicant had joined service on 19.7.59. This document was submitted after more than 30 years while any correction in the date of birth should be sought by an employee within 5 years from the date of joining service. Hence the impugned order dated 14.1.2004 is perfectly legal and justified.

5. After hearing the learned counsel for both parties and a careful perusal of the records, we find that the applicant had admittedly joined the service of the respondents on 19.7.59. At that time, the date of birth of the applicant as declared by the applicant himself and recorded is 1.3.1932. When the respondents asked him to file the original document regarding his date of birth in 1990, the applicant submitted his school leaving certificate (Annexure A8) dated 13.1.97 in which his date of birth is mentioned as 1.6.45. This document was well in the possession of the applicant even on the date of his joining service i.e. 19.7.1959. He could have filed this document at that date also but by filing this document at that time, he could not have obtained the service because according to the date of birth mentioned in this document, he was only 14 years of age on the date of his joining service. The argument advanced on behalf of the applicant that none was ready to work as BPO at that time, hence the

applicant was appointed in emergency, cannot be accepted. The retirement order dated 3.1.97 was cancelled by a subsequent order dated 24.2.97. About this cancellation, the respondents have argued that this order was passed by an authority which was not competent to do so. The applicant cannot take benefit of his date of birth as 1.6.45 at both sides i.e. at the time of joining service, he was 14 years of age according to the aforesaid date of birth. The Hon'ble Supreme Court in 2004 SCC (L&S) 469 - State of Punjab and others vs. S.C.Chadha – 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 or administrative instructions, held, is that claims for correction should not be made after decades, especially on the eve of superannuation age."

6. In the present OA, the applicant has submitted his school leaving certificate Annexure A8 more than 35 years after his joining service, which cannot be accepted.

7. After considering all the facts and circumstances of the case, we are of the considered opinion that the OA has no merit. Accordingly the OA is dismissed. No costs.

  
(Madan Mohan)  
Judicial Member

  
(M.P.Singh)  
Vice Chairman

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