

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

Original Application No. 308 of 2003

(B) Jabalpur, this the 10th day of May 2005

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

Ashok Sharma, S/o. Shri G.S. Sharma,
Aged 37 years, Occupation : Unemployed,
R/o. 22/23, Harishankar Puram, Nawab Singh
Colony, Gwalior (MP). Applicant

(By Advocate – Shri D.P. Singh on behalf of Shri J. Maheshwari)

V e r s u s

1. The Union of India, through its Comptroller & Auditor General of India, Bahadur Shah Jafar Marg, New Delhi.
2. The Chief Accountant General, AGMP Gwalior, Gwalior (MP).
3. The Deputy Accountant General, AGMP, Gwalior, Gwalior (MP). Respondents

(By Advocate – Shri M. Rao)

O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application the applicant has claimed the following main reliefs :

- "i) the order dated 10.2.2000 passed by the respondent No. 2 dismissing the applicant be quashed and the order passed by the appellate authority dated 10.1.2001 and 8.2.2002, Annexure A-1 and A-2 be also ordered to be quashed,
- ii) the respondents authorities may be directed to reinstate the applicant w.e.f. 10.2.2000,



iii) the applicant must be paid all consequential benefits from the date of dismissal order passed by the authorities."

2. The brief facts of the case are that the applicant has passed his middle examination in the year 1983 and his date of birth has been erroneously entered as 20.6.1969 instead of 20.6.1964. The applicant was not aware of this fact. The applicant was selected on the post of Peon in the 1983 on temporary basis in the CAG Department at Gwalior. Subsequently, he has been regularized in December, 1985. He was transferred to work in different sections during his service period. A letter has been issued to the applicant on 6.1.1998 with a charge sheet stating that disciplinary enquiry is pending against him under Rule 10 (1) of CCS Rules, 1965 and he was placed under suspension with immediate effect. The allegation against him was that in the document submitted by him at the time of his appointment the date of birth is mentioned as 20.6.1969 instead of 20.6.1964. The applicant submitted his reply against it but the respondents did not supply the relevant documents to him. Vide order dated 11.2.2000 the disciplinary authority passed the order of termination of service on the applicant. His appeal was dismissed vide order dated 11.1.2001 and his revision petition was also dismissed. Hence, this Original Application is filed.

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

4. It is argued on behalf of the applicant that the applicant has neither concealed nor misrepresented any fact. The learned counsel for the applicant has drawn our attention towards Annexure A-3 i.e. the mark sheet issued by the District Education Officer in which his date of birth is mentioned as 20.6.1969. He has further drawn our attention towards Annexure A-12 dated 9.6.1998 by which the Joint Director Education, Gwalior Division, Gwalior has mentioned in his letter that due to mistake the date of birth of the applicant was mentioned as 20.6.1969 instead of



20.6.1964. The applicant is a class IV employee and this mistake committed by the Education Department was not within his knowledge. He has further drawn our attention towards the list of 35 candidates annexed with Annexure R-1 in which the year of birth of many persons are mentioned as 59,60,62,64,57 and the applicant was appointed in the year 1983 i.e. within the prescribed age limit for the said post of Peon between 18 to 25 years. If the applicant's date of birth is accepted according to the version of the respondents, even then, he was of 19 years of age in the year 1983 i.e. his date of appointment. The mistake or error if committed, that is on the part of the Education Department who issued the mark sheet. The applicant has not produced any bogus certificate or he has not fabricated or made any overwriting or cutting on his date of birth. Hence, this OA deserves to be allowed.

5. In reply, the learned counsel for the respondents argued that on verification it was found that the actual date of birth of the applicant is 20.6.1964 while in the mark sheet which he has submitted, his date of birth is mentioned as 20.6.1969. The matter was got verified through the Education Department and the Deputy Director of Education, Gwalior, reported vide letter dated 17.9.1997 that his date of birth is 20.6.1964. Hence the charge sheet was issued against the applicant and after conducting the departmental enquiry, the impugned orders were passed in accordance with the CCS (CCA) Rules, 1965. The respondents have not committed any irregularity or illegality. The only document which was relevant in this case was the mark sheet of the applicant, the copy of which was duly furnished to him. The applicant has concealed his original date of birth. Hence, this OA deserves to be dismissed.

6. After hearing the learned counsel for the parties and perusing the records, we find that the applicant had submitted his mark sheet in which his date of birth is mentioned as 20.6.1969. He has also

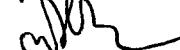


mentioned the same date of birth in his attestation form Annexure R-1. This attestation form was filled by the applicant himself. The applicant is an educated person. The Deputy Director of Education, Gwalior has submitted his report dated 17.9.97 that the date of birth of the applicant is 20.6.1964 and he has clearly mentioned that the applicant's date of birth is not 20.6.1969 according to his record. Learned counsel of the applicant argued that the Joint Director of Education has submitted his report dated 9.6.98 that the actual date of birth of the applicant is 20.6.1964 and the earlier mark sheet issued to him in which his date of birth is mentioned as 20.6.1969 was due to some mistake of the office, which has been corrected and that mark sheet has been cancelled. The respondents have argued against this letter of the Joint Director (Annexure A12) stating that it is issued after issuance of the charge sheet against the applicant dated 6.1.1998 while this letter is issued on 9.6.1998. This aforesaid letter Annexure A1 does not help the contention of the applicant that the applicant has neither concealed any fact nor misrepresented any fact before this Tribunal. If there is any fault, that is on the part of the Education Department. The charges levelled against the applicant are duly proved and established. The applicant could have brought the fact of the actual date of birth to the knowledge of the respondents within 5 years of his service, but he intentionally concealed the same. We have perused the impugned orders passed by the respondents dated 10.1.2001 (Annexure A1) and 8.2.2002 (Annexure A2). These orders are speaking, reasoned and detailed orders. The charges levelled against the applicant are serious in nature and considering the gravity of the charges, it does not shock our conscience about the punishment awarded to the applicant.

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7. Considering all 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

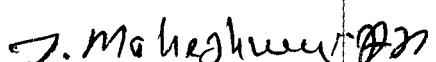
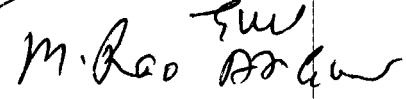

(M.P. Singh)
Vice Chairman

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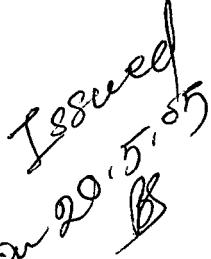
प्रष्टांकन सं. ओ/व्या..... जबलपुर, दि.....
प्रतिनिधि वाले हितः—

- (1) सचिव, उच्च न्यायालय राज्य एवं राज्यालय, जबलपुर
- (2) आवेदक श्री/श्री म. के काउंसल
- (3) प्रत्यक्षी श्री/श्री य. के काउंसल
- (4) व्यापकल, लेफ्ट. एवं राज्यालय, जबलपुर

सूचना एवं आवेदक का अप्रियता


ज्य. मल्होत्रा


Issued
on 20/5/05