

Central Administrative Tribunal  
Jabalpur Bench at Gwalior

OA No.514/2001  
Gwalior this the 30th day of October, 2003.

Hon'ble Mr. Shanker Raju, Member (J)

Hon'ble Mr. Sarveshwar Jha, Member (A)

Jagdish Prasad Sharma,  
S/o Sh. Mata Prasad Sharma

-Applicant

(By Advocate Sh. S.L. Dhakad)

-Versus-

Union of India through  
The Director, IB,  
Home Ministry, New Delhi.

-Respondents

(By Advocate S.ri P.N. Kelkar)

ORDER (ORAL)

Mr. Shanker Raju, Member (J)

Applicant impugns retirement order dated 10.7.2000 and has prayed for his continuation in service on the basis of his date of birth 1.7.1943 till 2003.

2. Applicant was appointed as a water carrier in Madhya Bharat Police on 18.5.1959, declaring his age as 18 years at that time. Applicant was appointed on the post of Constable in M.P. Police Department on 27.6.1961. According to him as the date of birth was wrongly recorded and calculated as 27.7.1940 on the basis of SLC where the date of birth was recorded as 1.7.1943 the Supdt. of Police Commandant Gwalior 4th Bn. altered the actual date of birth and verified the same as 1.7.1943. Subsequently applicant was sent on deputation in CID department in the Central Government on 1.9.96 where the entire service record of applicant was transferred.

3. Learned counsel of applicant states that as per the procedure laid down for the State to correct the date of birth as per the instructions contained in M.P. State Finance Department memo dated 21.3.97 date of birth can be altered on the basis of SLC. In this conspectus it is stated that as the date of birth has already been altered to 1.7.1943 by the Commandant now retiring applicant on the basis of date of birth of 27.7.1940 cannot be countenanced.

4. On the other hand respondents contend that earlier when applicant was appointed as water carrier he had given his date of birth in 1959 as 18 years which corroborates and authenticates the actual date of birth as 27.7.1940. Assuming date of birth of applicant as 1.7.1943 in that event he was under age to be appointed to the government service.

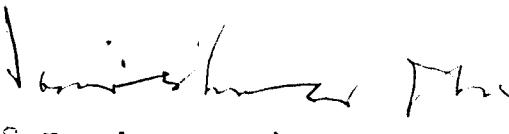
5. Moreover, learned counsel for respondents contends that in the MP Police Service acknowledged that the alteration has not been authenticated as per the rules as there is no acknowledgement or signature of the competent authority. Having failed to establish and prove that applicant had requested for alteration and the same has been acceded to by the competent authority the document is manipulated and the date of birth as certified on 3.7.90 is 27.7.1940 is the authentic date of birth as per the which applicant has rightly been retired at the age of 60 years. Lastly, it is contended as per the ~~settled~~ settled position of law change of date of birth cannot take place beyond five years from the date of entry in service and belated request cannot be acceded to.

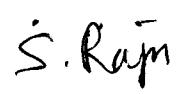
6. We have carefully considered the rival contentions of the parties and perused the material on record. In view of the decision of the Apex Court in G.M., Bharat Cocking Coal Lt. v. Shib Kumar Pushant, JT 2000 Supp (2) SC 325 date of birth cannot be allowed to be altered at the fag end of superannuation of a government servant. As per the notification of the Govt. of India the same is to be acceded only when the prayer has been made on the basis of authentic proof of service within five years from the date of entry in government service.

7. Moreover, in the present case applicant who was appointed as water carrier in 1959 could not have given appointment on the basis of date of birth of 1.7.1943 as he would have been 16 years of age as in 1959 applicant had declared his date of birth as 18 years. This corroborates the date of birth of 27.7.1940 as the authentic proof.

8. As regards date of alteration by the Supdt. of Police is concerned, it is substantiated by proof of any record to the effect that such a request was ever made by applicant in absence of any acknowledgement and signature of the competent authority altering the date of birth which is to be done at the State level after following the procedure laid down in State notification dated 21.3.97. This altered date of birth remains undisputed and is not authentic. It is for the applicant to show that ~~that~~ <sup>h</sup> the date of birth has been altered in the course of his service in MP Police and as per the rules.

9. Having regard to the above, as applicant's date of birth is 27.7.1940 as recorded in the MP Police Service roll and the altered date of birth has no authenticity the retirement notice does not suffer from any legal infirmity and we hold that applicant has been rightly retired on attaining the age of 60 years on the basis of date of birth recorded as 27.7.1940. The OA is found bereft of merit and is accordingly dismissed. No costs.

  
(Sarveshwar Jha)  
Member (A)

  
(Shanker Raju)  
Member (J)

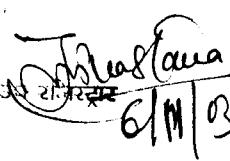
मुख्यमंत्री राज्य सभा, नवीन भवन, दिल्ली, द.

(1) राज्य सभा के लिए नियमित विधायक

(2) राज्य सभा के लिए नियमित विधायक S.L. Bhakar, Ach. G.W.H

(3) राज्य सभा के लिए नियमित विधायक P.N. Kothari, Adm. G.W.H

राज्य सभा के लिए नियमित विधायक

  
T. Balaji  
6/11/03

  
T. Balaji  
6/11/03