

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

CIRCUIT COURT AT INDORE

Original Application No. 233 of 1998

Indore, this the 13th day of May 2003

Hon'ble Shri R.K. Upadhyaya - Administrative Member.  
Hon'ble Shri A.K. Bhatnagar - Judicial Member.

Smt. Lila Bai, W/o. Kanyalal,  
N.M.R. Mali, C/o. Central P.W.D.  
Mazdoor Union, (Approved Labour  
Union), Through Regional Secretary,  
Camp 3216, B.N.P. Colony, Dewas.

... Applicant

(By Advocate - None)

V e r s u s

Union of India through,

1. Director, Horticulture Department,  
I.P. Bhawan, C.P.W. Office,  
"Indra Prastha Estate", New Delhi.
2. Assistant Director, Horticulture,  
Central P.W.D. Office, Bank Note  
Press, Dewas.
3. Dy. Director, Horticulture,  
Horticulture Department, Division  
II, Central P.W.D. 29/967, Sector  
8, Entop Hills, Mumbai 37.

... Respondents

(By Advocate - Shri B. Dasilva)

O R D E R (Oral)

By R.K. Upadhyaya, Administrative Member :-

This original application is disposed of with the assistance of learned counsel of the respondents Shri B. Dasilva under Rule 15(1) of CAT (Procedure) Rules and on the basis of material available on record.

2. The applicant has sought a direction for quashing of order dated 29/11/1997 (Annexure A/3) by which the applicant has been retired "due to crossing the prescribed age of superannuation". The claim of the applicant was that she was appointed as Casual Labour initially and was granted

*Ans. Bhatnagar*

status of temporary employee vide order dated 14/10/1994 (Annexure A/2). This order of 14/10/1994 mentions her date of birth as 05/01/1953. However the applicant has been ordered to be retired on the age of superannuation as per impugned order dated 29/11/1997 (Annexure A/3) treating her date of birth as 15/07/1934. The applicant has further stated that no opportunity for correcting the date as stated by the respondents in their letter dated 14/10/1994 (Annexure A/2) from 05/01/1953 to 15/07/1934 was ever given. The applicant has also not been informed that there was anything in the possession of the respondents that her correct date of birth as stated by the respondents themselves was incorrect. In the premises, the applicant has sought the direction as stated earlier.

3. The respondents had admitted that the applicant has been granted the status of temporary status of casual labour. According to the respondents, the applicant and other 4 persons who had made <sup>request for</sup> correction in their date of birth was rejected as per order dated 18/04/1996 (Annexure R/3). Therefore, the applicant was properly retired on reaching the age of superannuation on the basis of her date of birth being 15/07/1934.

4. We have heard the learned counsel for the respondents and have carefully perused the material available on record.

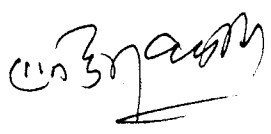
5. The respondents have admitted in their reply that the applicant was initially engaged as Casual Labourer and was given temporary status alongwith 4 persons as per order dated 14/10/1994 (Annexure R/1). This order of temporary status mentions her date of birth as 05/01/1953. It appears that there was some dispute of the actual date of birth of

*Chandram*

the applicant as recorded in the records of the respondents. The order dated 18/04/1996 (Annexure R/3) is addressed to Shri Ganga Ram, Deputy Director of Horticulture. This letter has been issued by the Additional Director of Horticulture. It appears that the rejection of the applicant's petition for change of date of birth has not been intimated to her before terminating the services at the age of superannuation. In the circumstances, in the interest of justice, we are of the view that the matter should be re-examined by the respondents with an opportunity to the applicant of being heard before taking any decision in the matter. There will be some corroborative evidence like medical examination or the records of initial appointment or service book of the applicant. Those should be examined and preferably a show-cause notice should be given to the applicant before taking a final decision in the matter and the applicant should be heard and her evidence if any be considered and decision on the matter should be taken by a speaking order. After the applicant is given such an opportunity of being heard and decision on the correct date of birth is communicated to the applicant, only then the respondents may proceed to take a decision afresh in the matter. Reinstatement or any other consequential benefits will <sup>✓ be</sup> dependent on the outcome of the investigation and order passed by the respondents as directed hereinbefore. This exercise should be completed within a period of 3 months from the date of receipt of copy of this order.

6. In view of our direction in the preceding paragraph, this original application is disposed of without order as to costs.

  
(A.K. BHATNAGAR)  
JUDICIAL MEMBER

  
(R.K. UPADHYAYA)  
ADMINISTRATIVE MEMBER

