

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.291 of 1999

Jabalpur, this the 28th day of January, 2003.

Hon'ble Mr.R.K.Upadhyaya, Member (Adminv.)

Suresh Kumar Rangari son of Balaram Rangari, aged about 55 years, Qtr. No.233-A, Zone-II Bhilai Marshalling Yard, Charoda Tehsil and District Durg, M.P. at present working as a Fitter/Technician Grade-I, Carriage, B.M.Y. under Sr. Section Engineer (C&W), South Eastern Railway, Bhilai Durg.

-APPLICANT

(By Advocate- Mr.Ram Raj Ram)

Versus

1. General Manager,
South Eastern Railway, Garden Reach, Calcutta.
2. Chief Personnel Officer,
South Eastern Railway, Bilaspur.
3. Divisional Railway Manager,
South Eastern Railway, Bilaspur.
4. Divisional Personnel Officer,
South Eastern Railway, Bilaspur.
5. The Senior Divisional Mechanical Engineer, South Eastern Railway, Bilaspur.
6. Assistant Personnel Officer (W)
South Eastern Railway, Bhilai, Durg (M.P.)

-RESPONDENTS

(By Advocate- Mr.S.S.Gupta)

O R D E R (ORAL)

This application has been filed seeking a direction to quash the order dated 2.12.1998 (Annexure A/1), rejecting the applicant's claim for alteration of date of birth from 21.4.41 to 21.4.44.

2. The applicant states that he was appointed as a Shed Khalasi under Divisional ^{Railway} Manager, South Eastern Railway, Bilaspur. The applicant was medically examined by Medical Officer, South Eastern Railway on 15/17.10.68

and the age as per doctor's certificate is recorded as '24 1/2 yrs.'. It is further claimed that at the time of joining his duties, the applicant submitted his school leaving certificate dated 6.5.1964 issued by the Head Master, Janta Purav Madhyamik Shala, Bhilai-3, Durg, in which the applicant's date of birth was recorded as 21.4.1944 (Annexure A/2). He has also made a reference to Seniority list of Shed Khalasi dated 18.12.1973 (Annexure A/4) in which the date of birth of the applicant is mentioned as 21.4.1944. The claim of the applicant is that only in the year 1997 when he ~~was~~ applied for a loan, he came to know that his date of birth as recorded in the departmental record is 21.4.1941. Therefore, he made a representation, which has been rejected by the impugned order dated 2.12.98 (Annexure A/1). The learned counsel for the applicant states that the original papers ~~book~~ and other ^{service} records produced for perusal before this Tribunal are forged and they should not be believed and the date of birth as claimed by the applicant should be substituted in place of 21.4.1941.

3. The learned counsel for the respondents invited attention to the reply filed, in which it has been stated that the application for change of date of birth has been made on 17.8.1997, which is inordinately delayed. According to him, request for change of date of birth at the verge of his retirement is liable to be rejected. Referring to the original records of service book and Medical Officer's report, it is stated that the applicant was medically examined by the Medical Officer, Bhilai. The respondents have specifically denied that the applicant had submitted a school certificate at the time of his joining. Therefore, the documents submitted in support of date of birth

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(Annexure A/2) should not be taken into consideration. The learned counsel for the respondents invited attention to the seniority list of the Fitter Gr.II published as on 31.12.1987 for Mechanical Department, in which the applicant's name is at Sl.No.318 and his date of birth is shown as 21.4.1941. A copy of the seniority list dated 31.12.1987 has been filed as Annexure R/1. According to the learned counsel for the respondents, the applicant made an application for becoming a shareholder of S.E.Railway Employees Co-operative Society Limited and the Assistant Secretary of the Society by letter dated 31.7.1998

(Annexure R/2 has confirmed that the date of birth of the applicant as recorded in the loan register was 21.4.1941. The learned counsel for the respondents also invited attention to application dated 29.9.1997 (Annexure A/6), wherein the applicant had stated as follows:-

'That, recently I came to know that my date of birth had been recorded as 21.4.41 in the service record even though no any certificate in proof of the same had been submitted from my side during my service carrier.

According to the School Certificate issued by Head Master Janta Middle School, Bhilai dated 6.5.64. My correct date of birth is 21.4.44. In this connection I wish to draw your kind attention to the following documents to verify the truth.

- (1) My application for initial appointment in the Rly. service in Class IV category .
- (2) Seniority list of Shed Khalasi (70-85 (AS) of Carr. Shed SMY/BIA/DRZ/DURG as one unit- as on 11.7.73 published under DPO/BSP's No.E/MEC/C&W/S.kh/BMY/B218 Dec.73 (Sl.No.481)
- (3) Medical Certificate No.017771 dt.17.17.68 issued by AMO/BMY.
- (4) Date of birth certificate issued by Hd.Master Janta Middle Primary School/Bhilai dt.6.5.64.

During the last 5 years the then Bill Clerk of C/BIA/Pt.I of your office asked me to produce the original date of birth certificate along with a copy of the same for attestation of the date of birth

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in the Service Sheet. But I surprised to note that ~~he had never informed~~ me about the fact and the D.B. is got attested as 21.4.41 instead of 21.4.44 without any documentary evidence from my side.

Sir, it is well known to the administration that the date of birth is to be recorded by the Employees in their own hand writing and the Service Sheet is to be shown to the concerned staff but in practice it was not being followed at that time. The entire S/Sheet was being prepared by the Bill Clerks and the signature OR LTI, finger Prints were obtained.

The documentary evidence i.e. the School Certificate had been issued by the School Authority prior to my appointment in the Railway Service. I had not obtained any advantage by producing any other certificate for recording the date of birth as 21.4.41. It clearly seems to be the Clerical error while recording the same in the S/Sheet as such I should not be harrassed for the same.

Under the above circumstances I would like to request you to verify the afore said records to find out the truth of the case and arrange to correct my Date of birth as 21.4.44 instead of 21.4.41 in all the Service Records and save me from unnecessary harrasment for which act of kindness I shall remain over grateful."

This indicates that the applicant was aware of his date of birth as recorded in the office records was 21.4.41. If the applicant wanted to change his date of birth, he should have produced the records in support of his claim, but he never produced.

4. The arguments of both the parties have been heard and material available on records have been perused carefully. The original Medical Report of Medical Officer dated 15/17.10.68 as well as original service particulars of the applicant as maintained by the respondents has also been seen at the time of hearing. The medical certificate does not give any date of birth, but it merely refers to age as 24 1/2 years. The date of birth as recorded on the particular of service is mentioned as 21.4.41. This is attested by the applicant as well as APO (W). The Hon'ble Supreme Court in the case of

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G.M.Bharat Coking Coal Ltd. Vs. S.K. Dushad & Ors., 2001 Lab. IC 28 have held that the claim of the employee on the verge of retirement claiming correction of date of birth may not be accepted generally. In the case of Union of India Vs. Harnam Singh, 1993 SCC (L&S) 375=1993(2) SCC 162 ^{the} Apex Court/ observed that those in service prior to 1979 for a period of more than 5 yrs. ^{were} ^{to} be obliged to seek alteration within 5 yrs. from amended note to FR 56. . . In this connection reference has been made to Note 6, Below FR 56, which states as follows:

".... The date of birth so declared by the Govt. servant and accepted by the appropriate authority shall not be subject to any alteration except as specified in this note."

It is further provided that a request for change of date of birth may be made within five years of his entry into Government service/as early as ^{which in this case was} in the year 1968. He made a formal request for change of date of birth only in the year 1997, which is within four years of his retirement. In view of the Hon'ble Supreme Court decisions and instructions of ~~Government~~ as extracted earlier, such request need not be considered.

5. In the result, this application is dismissed without any order as to costs.

(Signature)

(R.K. Upadhyaya)
Member (Admnv.)

'MA'

प्राप्तकन सं ओ/न्या.....जबलपुर, दि.....

परिमिति अन्तर्गत:-

- (1) सचिव, जबलपुर नगर प्रशासन, जबलपुर
- (2) सचिव, जबलपुर नगर प्रशासन, जबलपुर
- (3) सचिव, जबलपुर नगर प्रशासन, जबलपुर
- (4) सचिव, जबलपुर नगर प्रशासन, जबलपुर

सूचना एवं आदेशों का कार्यवाही हेतु

(Signature)
उप सचिव

28/1/03

Issued
on 30.1.03
BS