

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

Jaipur, this the 1<sup>st</sup> day of April, 2011

**Original Application No.317/2009**

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)**  
**HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

Dr. Lok Nath Sharma  
s/o late Shri Badri Narain Sharma,  
r/o Plot No.E-123, Bank Colony,  
Murlipura Scheme,  
Jaipur and presently holding the  
Post of Professor and Head of the  
Department of Roga and Vikriti Vigyan,  
National Institute of Ayurveda, Jaipur

.. Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. The Union of India  
through its Secretary to the Govt. of India,  
Department of Ayush,  
Ministry of Health and Family Welfare,  
New Delhi.
2. Governing Body of National Institute of Ayurveda  
through President cum Minister of Health  
and Family Welfare, Govt. of India,  
New Delhi.
3. Director, National Institute of Ayurveda,  
Jaipur.
4. Shri Mahesh Chandra Sharma,  
Director,  
National Institute of Ayurveda,  
Jaipur.

.. Respondents

(By Advocate: Shri Anurag Agarwal, proxy counsel for Shri M.D.Agarwal)

ORDER (ORAL)

The short controversy involved in this case is regarding date of birth. The applicant is permanent resident of Benar, District Jaipur and got admitted in class 3<sup>rd</sup> in Government Primary School, Khorabishal by his near relative because father of the applicant was serving in railway and always remained out of village and at that time the applicant was about 7 years of age. Thereafter he took admission in Maharaj Sanskrit School, Jaipur in which Shri Ram Sharma got admitted the applicant who was known to father of the applicant and residing in Khajane Walon Ka Rasta, Jaipur and recorded date of birth as 20.7.1949. The applicant further passed the Praveshika Examination in the year 1962 from the Board of Secondary Education Rajasthan in which date of birth of the applicant is 20.7.1949. After passing the Praveshika Examination the applicant took admission in Government Ayurvedic College, Jaipur in the year 1962, but in the scholar register respondents shown wrong date of birth as 15.4.1947 instead of 20.7.1949 for which the applicant submitted transfer certificate from Maharaj Sanskrit College, Jaipur. However, the fact regarding wrong entry of date of birth came to knowledge of the applicant when the respondents called for explanation from the applicant in the month of January, 2009.



The applicant after admission in Government Ayurvedic College, Jaipur passed Bishagacharya (Graduation) in which date of birth of the applicant is also shown as 20.7.1949 (AnnA/4). After graduation, the applicant being eligible to the post of Ayurved Vaiya and after due selection appointed to the post in the year 1967 and in the service record of the applicant his date of birth is also shown as 20.7.1949 (Ann.A/5). While in service, the applicant also passed higher examination of Ayurved Brahashpati (MD Ayurved) in the year 1975 and further Doctor of Philosophy (Ayurveda) and continued in service of State Government. These higher educations have been passed by the applicant on the basis of scholar register of Government Ayurvedic College, Jaipur and further Enrolment Number allotted to the applicant by the University of Rajasthan, but the respondents recorded wrong date of birth in the scholars register in the year 1962 as 15.1.1947 instead of 20.7.1949. Similarly in the year 1972 again recorded date of birth as 20.7.1950 instead of 20.7.1949 whereas throughout in his educational certificates as well as in his service record the date of birth shown by the applicant is 20.7.1949. The wrong date of birth was never attested by the applicant nor any interpolation is found in the service record and from very inception, the date of birth of the applicant is shown as 20.7.1949 as mentioned in the matriculation certificate issued by the Board of Secondary Education, Rajasthan.

2. We have seen the original record and the same was thoroughly perused by us. Upon perusal of the service record, it



appears that date of birth of the applicant has been shown as 20.7.1949 and the same entry has been attested by the Deputy Director. Further, the Bio-date was also verified and attested by the Deputy Director (Admn.) wherein also the date of birth of the applicant was shown as 20.7.1949. Assuming for the sake of arguments, as shown in Ann.A/6 the date of birth of the applicant is 20.7.1950 recorded in scholars register in the Government Ayurvedic College, Jaipur prepared by the respondents, the applicant has not taken any advantage of this date of birth and the respondents have retired the applicant on superannuation considering the date of birth as 20.7.1949. The entire relevant record relating to educational qualification for the purpose of date of birth, the date of birth shown as 20.7.1949 and the same has been attested by the competent officer of the respondent department.

3. The respondents failed to explain how the date of birth as mentioned in the scholars register as 15.1.1947 in the year 1962 has been recorded and further the entry made in the scholars register on 31.7.1972 wherein the date of birth of the applicant has been shown as 20.7.1950 and there is no source whatsoever as to how the date of birth in the year 1962 and in the year 1972 has been recorded in the scholars register of the respondents. Even in the eyes of law for any interpolation in the date of birth in the scholars register, the applicant cannot be held responsible as the applicant is consistently mentioning his date of birth as 20.7.1949 as recorded in his certificate issued by the Board of Secondary Education and



the service record as well as in the Bio-date attested by the Deputy Director (Admin.), Ayurveda Department.

4. It is not disputed that the applicant put in 32 years of service during which period the respondents have not taken any step for issuing any charge-sheet and as per the material available on record, it is evident that date of birth of the applicant has been shown as 20.7.1949 consistently in the service record of the respondents as well as in other documents which has been annexed with the OA.

5. Merely because the respondents have relied upon the scholars register in which entry has been made by the Principal and not by the applicant in order to show that the applicant has shown his date of birth as 15.1.1947 while taking admission in the Ayurvedic College in the year 1962, cannot be taken note of. Further, the only document which has been relied upon by the respondents is certificate given by the Headmaster, Higher Secondary School, Khorabishal whereby the date of birth of the applicant has been shown as 5.4.1946, there is no other contemporaneous record to show that date of birth of the applicant as 15.1.1947 or 5.4.1946 was recorded at the instance of the applicant so as to make him liable under the rules.

6. Thus, it is fully established that the charge-sheet has been issued by the respondents without application of mind and with a ulterior motive. As observed hereinabove and upon perusal of the original record it is evident that the charge-sheet issued to the applicant is without basis and respondents are not able to satisfy

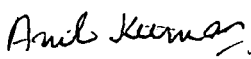


this Tribunal and different entries regarding date of birth appear to be made by the respondents themselves for which the applicant cannot be held responsible.

7. Thus, in our considered view, the memorandum dated 21.7.2009 (Ann..A/1) and further inquiry proceedings deserve to be quashed and set-aside and respondents are liable to be restrained to initiate any inquiry proceedings. Since the applicant has already retired after attaining the age of superannuation and the charge-sheet issued two days prior to the retirement of the applicant itself reveals that the respondents are acting mala-fidely and with ulterior motives and thus issued charge-sheet to the applicant, as such, the same is quashed and set aside and further inquiry proceedings initiated pursuant to the said charges-heet are also quashed and set aside.

8. The OA stands allowed in the aforesaid terms with no order as to costs.

9. In view of the order passed in the OA, no order is required to be passed in MA Nos.349/09, 63/10 & 315/10, which stand disposed of accordingly.

  
(ANIL KUMAR)  
Admv. Member

  
(JUSTICE K.S.RATHORE)  
Judl. Member

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