

50/100  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 166/95.....

R.A/C.P No. ....

E.P/M.A No. ....

1. Orders Sheet..... Pg. 1..... to B.....
2. Judgment/Order dtd. 6.12.1985..... Pg. X..... to 110. *Separate order*  
*8/10*
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... 166/95..... Pg. 1..... to 10.....
5. E.P/M.P..... Pg..... to.....
6. R.A/C.P..... Pg..... to.....
7. W.S..... Pg..... to.....
8. Rejoinder..... Pg..... to.....
9. Reply..... Pg..... to.....
10. Any other Papers..... Pg..... to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (JUDI.)

*Kabir*  
6.2.98

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH  
GUWAHATI

ORIGINAL APPLN. NO.	166	OF 1995
TRANSFER APPLN. NO.		OF 1995
CONTEMPT APPLN. NO.		OF 1995 (IN OA NO. )
REVIEW APPLN. NO.		OF 1995 (IN OA NO. )
MISC. PETN. NO.		OF 1995 (IN OA NO. )

*Rajdeo Barman* .....

APPLICANT(S)

-vs-

*U.O.I. G.M.* .....

RESPONDENT(S)

FOR THE APPLICANT(S)

...MR.  
MR.  
MR.  
MR.

*A.K. Roy*

FOR THE RESPONDENTS

...MR. *B.K. Sharma*  
Railway advocate

OFFICE NOTE

DATE

ORDER

30.8.95

Mr A.K.Roy for the applicant.

Mr B.K.Sharma for the respondents  
on notice.

Heard. With the statement of the applicant that he had never seen his service book during his entire period of service and as he wants to contend that the medical certificate Annexure-B would render the date recorded in the service record differently to be wrong and further as the applicant is retiring tomorrow the O.A. is admitted so that the applicant may not ~~feel~~ that his grievance was not considered.

Issue notice to the respondents. Written statement within 8 weeks. While filing the written statement the respondents are expected to verify the service record and also the medical certificate Annexure-B and will also explain as to why a very short notice of the date of retirement was given.

I am not satisfied that granting interim relief will be justified particularly having regard to the decision of the Supreme Court in AIR 1995 SC 1499 at that point. Even if the

This application is in  
form and within time.

C. F. of Rs. 50/-  
deposited vide

IPO/BD No. 51.47.55  
Dated 29-8-95

*Amrit*  
30/8/95

*Par*

contd..

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH  
GUWAHATI

ORIGINAL APPLN. NO. OF 1995 O.A. 166/95  
TRANSFER APPLN. NO. OF 1995  
CONT EMPT APPLN. NO. OF 1995 (IN OA NO. )  
REVIEW APPLN. NO. OF 1995 (IN OA NO. )  
MISG. PETN. NO. OF 1995 (IN OA NO. )

..... APPLICANT(S)

..... RESPONDENT(S)

FOR THE APPLICANT(S) ... MR.  
... MR.  
... MR.  
... MR.

FOR THE RESPONDENTS ... MR.

OFFICE NOTE	DATE	ORDER
Requisites are ready & issued v/s. 3963-6 pg 2. 4. 9. 95	30.8.95	applicant retires and eventually happens to succeed in the case, <sup>order as</sup> indicated in that <sup>judgment</sup> order can be considered at the hearing of the O.A. Without prejudice to that position interim relief is refused. Adjourned to 30.10.1995.
for 4/9	1.11.95	Adjourned for orders to 6.12.95. Liberty to file counter.
Notice duly sent R. no. 1, 2, 3 & 4. trd		Vice-Chairman
9/19 Ready in regard of service of order	27/11	Vice-Chairman

Counter has not been filed.

5/12

6.12.95

22.8.96

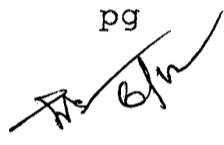
Copy of the order  
issued to the L/Advocates  
of the parties vide  
O.A. No. 2795, 2796  
D. 28.8.96.

Mr B.K.Sharma, the learned counsel for the respondents informs that Mr A.K. Roy, the learned Advocate of the applicant has requested him to inform the Tribunal that applicant does not desire to proceed further with the application and desires to withdraw the O.A. On the basis of the above statement the O.A. is allowed to be withdrawn and stands disposed of.

A copy of this order may be forwarded to the applicant for his information. No order as to costs.

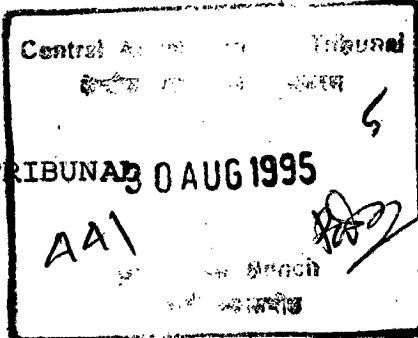
  
Vice-Chairman

pg

  
PG

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, 30 AUG 1995

GUWAHATI BENCH



(An application under Section 19 of the Administrative  
Tribunal Act 1985)

O.A. No. 166 /1995.

BETWEEN

Shri Rajdeo Prasad. : Applicant.

- Versus -

Union of India & Ors. :

I N D E X

Sl.No.	Documents.	Page.
1.	Application -	1 - 8
2.	Annexure - I.	9
3.	Annexure - II.	10

For use in Tribunal's Office.

Date of filing -

Registration No. \_\_\_\_\_

Signature \_\_\_\_\_  
(Registrar)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

(An application under Section 19 of the Administrative  
Tribunal Act 1985)

BETWEEN

Shri Rajdeo Prasad

Fitter Erector, Grade - II

O/O. Bridge Inspector, N.F. Railway,  
Rangapara, District - Sonitpur (Assam)

..... Applicant.

- AND -

1. Union of India, represented by  
the General Manager, N.F. Railway,  
Maligaon, Guwahati - 781011.
2. Divisional Railway Manager,  
N.F. Railway, Lumding,  
District - Nowgaon.
3. Deputy Chief Engineer, Bridge line  
N.F. Railway, Maligaon, Guwahati - 11.
4. Bridge Inspector, N.F. Railway,  
Rangapara, District - Sonitpur.

..... Respondents.

Cont ... 2.

Filed by the applicant  
through  
Advocate  
A.K. Ray  
Advocate

**1. Particulars of the Order against which this application is made :-**

This application is made against the illegal retirement which is going to be effected on and from 31.08.95 as has been informed by the Bridge Inspector, N.F. Railway, Rangapara on 03.08.95 to the applicant.

**2. Jurisdiction of the Tribunal :-**

The applicant declares that the subject matter of this application is within the jurisdiction of this Hon'ble Tribunal.

**3. Limitation :-**

The applicant further declares that the application is within the Limitation period prescribed in Section 21 of the Administrative Tribunal Act 1985.

**4. Fact of the Case :-**

(I) That, the applicant is a citizen of India and is entitled to all the rights, protections and privileges guaranteed by the Constitution of India.

(II) That, the applicant is a illiterate person and belonged to a very poor family. He was initially appointed as a Khalashi on 30.03.62 under Engineer-

ing Department, N.F. Railway and thereafter he was promoted and now he ~~w~~ has been working as Fitter Erector, Grade - II under Bridge Inspector, Rangapara.

(III) That, the applicant states that ~~on~~ on 03.08.95, when he was ~~as~~ duty, he was shocked and puzzled on hearing from his superior Officer, Bridge Inspector that his retirement is due on 31.08.95 and accordingly, he was asked to fill-up necessary papers for settlement of pensionary benefits. He also come to know that his ~~year~~ of birth has been shown as 1937 in the Service Book and accordingly his ~~date of retirement~~ has been calculated.

(IV) That, the applicant states that the said information was a bolt from the blue to the applicant in as much as his ~~actual date of retirement is 30.06.2001. He also states that at the time of his entrance in the Service was Eighteen years Nine months only and accordingly his ~~actual date of birth is 7.6.43~~ Hence, the ~~actual date of retirement falls on 30.06.2001.~~~~

(V) That, immediately, after getting the said information, the applicant sent a representation dated 03.08.95 to the Deputy Chief Engineer, N.F. Railway, Maligaon stating in details about the wrong entry of date of birth in his Service Book and requested to correct the same. The said representation was sent through proper channel and the same was forwarded by

the Bridge Inspector on 5.8.95.

A copy of said representation is  
annexed herewith as ANNEXURE - 'A'.

(VI) That, the applicant states that at the time of his entrance in the Service, he had to face a medical test on 07.06.62 and a Certificate was also issued from the Railway Hospital, Tinsukia. In the said Certificate ~~xx~~ his age on that date has been clearly shown as nineteen(19) years and also proves that his date of birth is 07.06.43.

A copy of the said Certificate is ~~xx~~  
annexed herewith as ANNEXURE - 'B'.

(VII) That, the applicant states that after the said representation date 03.08.95, he personally pursued the matter and requested the respondent No.3 to pass necessary Order so that he may continue the Service and his date of birth in the Service Book may be corrected, but till to-day no positive action has been taken.

(VIII) That, the applicant states that during his long 33 years Service period, he has never seen his Service Book and he has not got any chance to know that his date of birth has been entered wrongly. It is only on 03.08.95, he has come to know that ~~xx~~ his years of birth has been entered as 1937.

(IX) That, as per relevant rule, the respondents are required to publish a gazette notification before one year of the retirement and to inform the ~~applicant~~ applicant before three months of the retirement requiring to submit the relevant papers for retirement benefit. But in the instant case, the respondents has violated the said rules.

(X) That, the applicant submits that as the respondents are silent over the matter for last 25 day and as due to wrong entry of date of birth his retirement is on 31.08.95, he approach ~~the~~ this Hon'ble Tribunal by filing this original Application.

5. Ground of relief :-

(I) For that the date of birth as has been shown in the Service Book are false in as much as the age in the 1st medical report shows as 19 years on 7.6.62.

(II) For that at the time of his entrance in the Service, his age was only 18 years 9 months.

(III) For that as the applicant always remain out side the head quarter, he never got chance.

(IV) For that if the retirement is effected on the basis of wrong date of birth, the applicant will suffer irreparable loss and injury.

(V) For that at present the applicant is 52 years and hence he is entitled to work near about six years.

(VI) For that the decision of the respondent is completely arbitrary and illegal and is not sustainable in the eye of law.

(VII) For that the respondent has not followed the relevant rules regarding retirement.

**6. Details of remedies exhausted :-**

That, the applicant declares that he has taken recourse to all the remedies available to him but till date, he has not been favoured with a single written reply, as such there is no other alternative remedy open to him then to approach this Hon'ble Tribunal.

**7. Matters not previously filed or pending before any other Court :-**

The applicant further declares that he has not previously filed any application, Writ Petition or Suit regarding the matter in respect of which this application has been made, before any Court, authority or any other bench of this Hon'ble Tribunal except the representation dated 03.08.95 which has been submitted before the respondent.

8. Reliefs Sought :-

Under the facts and circumstances, stated above the applicant prays for the following ~~xxkex~~ reliefs :-

(I) To direct the respondents to correct the date of birth as 7.6.43 in the Service Book and all other records.

(II) To direct the respondents to allow the applicant to continue his service till 30.06.2001 on the basis of date of birth as 7.6.43.

(III) Any other further relief or reliefs as your Lordships may deem fit and proper.

9. Interim relief prayed for :-

Under the fact and circumstances, the applicant prays for an interim Order to the effect so that he may be allowed to continue his Service during the pendency of this case.

10. ....

11. Particulars of the I.P.O :-

(I) I.P.O No. DD 514755

(II) Date of Issuance - 29.8.95

(III) Payable at - Guwahati.

12. List of enclosures :-

As stated in the Index.

: V E R I F I C A T I O N :

I, Shri Rajdeo Prasad, Son of Late Butai Prasad, aged about 52 years, resident of Qrs.No.244/D, New Colony, Rangapara, District - Sonitpur, Assam, at present working as Fitter Erector, Grade - II, under Bridge Inspector, Rangapara, do hereby solemnly verify and state that the contents of the application from paragraphs No. 1 to 9 and 11, 12 are true to my knowledge and belief and have not suppressed any material facts.

And I sign this verification on this the 30th day of August 1995.



L.T.S. Rajdeo Prasad.

Signature of the Applicant.

✓  
Attested by  
Rajdeo  
Aug 30 1995

To

The Deputy Chief Engineer Bridge Line,  
N.F.Railway/Kaligaon.

Through Proper Channel.

Sir

Sub:- Incorrect date of birth recorded in Service Book.

Most respectfully I beg to lay before you the following few lines for your kind information & sympathetic judgement please.

That Sir, I was appointed ~~xx~~ on 30-3-62. I passed Medical Examination in A/3 on 7-6-62, vide Assistant Surgeon/TSK Health Unit/N.F.Railway where my age was recorded as 19 years. Accordingly my date of birth fallen on 7-6-43 and date of my actual retirement is fallen on 30-6-2001. But I have been intimated by BRI/RPAN that my retirement date is on 31-8-95 and asked me to fillup necessary settlement papers. I could not understand the reason for retirement in advance while my due retirement falls on 30-6-2001 as ~~xxxxxx~~ per my age recorded in the Ist Medical Examination Certificate.

Under the above I would request your honour kindly to look into the above personally and arrange to correct the date of my birth as per Medical Certificate & for which act of your kindness I shall remain ever grateful to you & obliged thereby.

Dated, Rangapara north,  
the 3rd, August '1995.

Yours faithfully

L. T. I of Sri Rajdeo Prosad.  
Fitter Erector Gr. II/RPAN  
under BRI/RPAN.

Copy to:-

Secretary, N.F.Railway Mazdoor Union/Rangapara north  
for information & necessary action pl.

L. T. I of Sri Rajdeo Prosad.  
Fitter Erector Gr. II/RPAN  
under BRI/RPAN.

Attested by  
Abdul  
Rangapara  
30-8-95

Mr. I of  
Fitter  
Erector  
RPAN

166/45

ANNEXURE - B

Form of certificate to be used when a candidate is  
medically examined for fitness for appointment  
to a State Managed Railway.

[ORIGINAL].

RAILWAY

2/5

No.

Hospital/Dispensary

I do hereby certify that I have examined (name)

(age) 19 yrs

candidate for appointment as (designation) Khatra

(Class) A/3, in the (Any) branch/department,

whose signature/thumb impression has been appended below in

my presence

I consider him fit/unfit for such appointment.

Asst. Surgeon/Inspector of Railway medical examiner

Govt. Health Unit, N.F.R.Y.

Appointed by

Adarsh  
Adarsh  
70.895

Date

Signature/Thumb impression of candidate

6.1862