

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.

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SECTION OFFICER (Judl.)

*Kahis*  
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 Prasad ..... APPLICANT(S)

-VS-

..... U. O. I. ... ..... RESPONDENT(S)

FOR THE APPLICANT(S)

...MR. A.K. Roy  
MR.  
MR.  
MR.

FOR THE RESPONDENTS

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

OFFICE NOTE

DATE

ORDER

30.8.95

This application is in  
form and within time

C. F. of Rs. 50/-

deposited vide

IPO/BD No. 51.4755

Dated 29.8.95

h. M. ...  
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~~ <sup>book</sup> differently to be wrong  
and further as the applicant is retiring  
tomorrow the O.A. is admitted so that  
the applicant may not be ~~felt~~ <sup>feel</sup> 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 parti-  
cularly having regard to the decision  
of the Supreme Court in AIR 1995 SC  
1499 at that point. Even if the

contd..

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH  
GUWAHATI

O.A.166/95

ORIGINAL APPLN.NO. 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. )

..... APPLICANT(S)

..... RESPONDENT(S)

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

FOR THE RESPONDENTS ...MR.

- 2 -

OFFICE NOTE	DATE	ORDER
	30.8.95	applicant retires and eventually happens to succeed in the case <sup>order as</sup> indicated in that <del>judgment</del> 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.
Requisites are read & issued v no. 3943-6 2.4.95	pg	
for 4/9	1.11.95	Adjourned for orders to 6.12.95. Liberty to file counter.
Notice duly send A. no. 1, 2, 3 & 4.	trd	
19/9 Ready in regard 2 since 2 orders	2/11	

*huk*

Vice-Chairman

*huk*

Vice-Chairman

Counter has not been  
filed.  
5/12

O.A. 166/95

6.12.95

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.

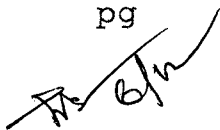
  
Vice-Chairman

22.8.96

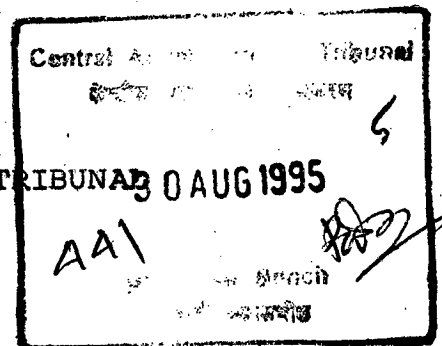
Copy of the order  
issued to the L/Advocate  
of the parties vide  
D No. 2795, 2796  
D. 28.8.96.

kh  
24/8

pg



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
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

Filed by the applicant  
through -  
A-12-Rang  
Administrative

(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, Lunding,  
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.

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 illeterate 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 has been working as Fitter Erector, Grade - II under Bridge Inspector, Rangapara.

(III) That, the applicant states that ~~was~~ 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 his age on that date has been clearly  
shown as nineteen(19) years and also proves that his  
date of birth is 07.06.42.

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

(VII) That, the applicant states that after  
the said representation date 03.08.95, he personally  
persued 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 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 irrepareable 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 comply 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 expect 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 ~~xxxx~~ 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  
1

(II) Date of Issuance - 29.8.95

(III) Payable at - Guwahati.

12. List of enclosures :-

As stated in the Index.

: VERIFICATION :

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.



Signature of the Applicant.

Attested by  
Rajam  
Associate  
30.8.95

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

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 ~~on~~ 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 ~~per my age~~ per my age recorded in the 1st 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 gratefull to you & obliged thereby.

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

Yours faithfully

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

Attested by  
Adm. Secy  
30.8.95

110.E/1/5.8.95  
for name of  
112p0302 P1  
BRI/RPAN

166/95

14

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

(ORIGINAL)

RAILWAY

Hospital/Dispensary

No.

2/5

I do hereby certify that I have examined (name)

Sr. Rajdeo Prasad

(age) 19 yrs

a candidate for appointment as (designation)

Khanna

(Class) A/B

In the

25 (B)

branch/department

whose signature/thumb impression has been appended below in

my presence

I consider him fit/unfit for such appointment.

*[Signature]*

Asst. Surgeon General Railway medical examiner

Health Unit

N.E. Ry.

(Designation)

Attested by

*[Signature]*

Advocate  
30.8.95

Date

Signature/Thumb impression of candidate

6. 1962

\*Read the rest where indicated