

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A.T.A No. 33/96

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet. OA-33/96 Pg. 1 to 4
2. Judgment/Order dtd. 06/02/97 Pg. N.O. Separated order Dismissed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A. 33/96 Pg. 1 to 51
5. E.P/M.P. NIL Pg.to.....
6. R.A/C.P. NIL Pg.to.....
7. W.S. NIL Pg.to.....
8. Rejoinder NIL 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 (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN.NO. 33/96 OF 1995
TRANSFER APPLN.NO. OF 1995
CONTEMPT APPLN.NO. OF 1995 (IN NO.)
REVIEW APPLN.NO. OF 1995 (IN NO.)
MISC.PETITION NO. OF 1995 (IN NO.)

S. K. D. N.

APPLICANT(S)

U. O. A. -vs- B. K. Sharma

RESPONDENT(S)

For the Applicant(s)

Mr.

Mr.

Mr.

Mr.

For the Respondent(s)

Mr.

OFFICE NOTE

DATE

ORDER

28-2-96

Mr.M.K.Mazumdar for the applicant.
Subject to objection as to limitation
of O.A. is admitted. Issue notice to the
respondents. 8 weeks for written ~~statement~~
statement. Adjourned to 10-4-96 for
orders. As the applicant has ^{approached} prayed at the
last moment. ^{it} is not possible to grant
any ex-parte ~~or~~ interim order as prayed.
The rights and contentions of the parties
will be subject to the decision in the
O.A. Hence no ad-interim order.

Member

Vice-Chairman.

lm

10.4.96

No written statement. Mr S.Sarma for Mr
B.K.Sharma seeks further time for filing
written statement.

List on 30.5.96 for written statement
and further orders.

Member

pg

(contd.to Page No.2)

Requisite notice
one yet to receive
from the applicant/Adv.
of applicant.

2/4

Service copy for notice
has not been submitted
in new.

2/ w/ statement - has not been
b/w

2/4

OFFICE NOTE

DATE

ORDER

1) Requisites for issuing notices not yet submitted till now. So service is incomplete.

2) W/statement has not filed.

30.5.96

Requisite has not been submitted. Written statement has not been filed. Inform the applicant for filing requisite within two weeks from today.

List for written statement and further orders on 2.7.96.

Member(A)

Member(J)

nkm

2.7.96

None present. Requisites have not been submitted by the applicant. Inform the applicant to submit the same if he desires.

List for order on 31.7.96.

Member

pg

31.7.96

None present. No information regarding submission of requisites.

List for order on 22.8.96.

Member

pg

22-8-96

None present. Written statement has not been submitted. List for written statement and further orders on 19-9-96.

Member

pg

19.9.96

None present. Written statement has not been submitted.

List for written statement and further orders on 15.10.96.

Member

nkm
17/10/96

27.6.96

Memo of appearance

Mr. J. L.

Srinan, Rg por.

1) Requisites for notices not submitted.

2) W/statement has not been filed.

18/9

W/statement has not been filed.

16/10

13

3

O.A. 33 of 1996

15.10.96

Mr. J.L.Sarkar, Railway counsel for the respondents.

Written statement has not been submitted.

Mr. Sarkar seeks time to file written statement.

List for written statement and further order on 27.11.1996.

Member

trd
m/16/10

w/ statement has not been
filed.

written statement
has not been filed.
8 Time adjourned for
w/s.

27.11.96

None present. Written statement has not been submitted.

List for written statement and further orders on 18.12.96.

Member

nkm
m/28/11

Written statement has
not been submitted.

18.12.96

None present.

No counter has been submitted.

List for written statement and further orders on 6.1.1997.

Member

trd
m/18/12

No requisite
filed till today
by the applicant
Advocate.

6.1.97

Mr J.L.Sarkar for the respondents.
None for the applicant. It is noticed that
requisites have not been filed by the
applicant till date. The applicant is
directed to submit the requisites within
one month from today.

List for order on 6.2.97.

Sent copy of this order to the appli-
cant in his last known address at Dimapur
as well as to the Advocates of the applicant.

Member

pg

3.1.97

2.1.97

Copy of order dtd
6.1.97 issued to
the applicant at
Dimapur.

By Dimapur.

26/11


17/12

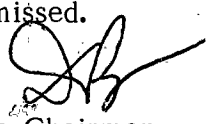
3/1

6.2.97

None is present on behalf of the applicant.
Mr J.L. Sarkar, appearing on behalf of the Railways,
is present.

As per the office note dated 5.2.1997
the applicant has not taken steps for submission
of the requisites for issuing the notices. It appears
that several adjournments have been given. As
per the earlier order dated 6.1.1997 the requisites
were to be submitted within one month. One months
time has expired, but no steps have been taken.
It appears that the applicant is not interested
in pressing the case. Accordingly it is dismissed.


Member

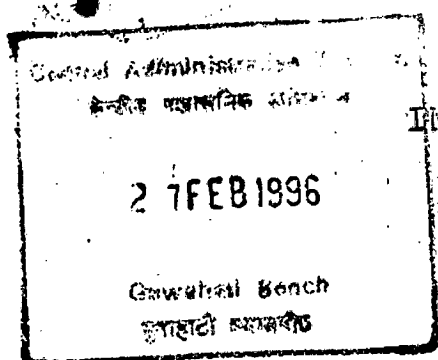

Vice-Chairman

12.2.97

Copy of order has
been issued to parties
alongwith L/Adm of the
parties vide S.No. 500-503
d. 14.2.97

nkm
M
10/2

kl.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI
BENCH, GUWAHATI.

CA No. 33 /96

Sri Sachindra Kumar Das
.....Applicant

Ve.

1. North Frontier Railway, L.

....Respondents

I N D E X

Sl.No.	Description of documents relied upon.	Page
1.	Application	1- 30
2.	Verification	31
3.	Annexure-I	32- 33
4.	Annexure-II	34- 35
5.	Annexure-III	36- 37
6.	Annexure-IV	38
7.	Annexure-V	39
8.	Annexure-VI	40
9.	Annexure-VII	41
10.	Annexure-VIII	42
11.	Annexure -IX	43
12.	Annexure X	44-46
13.	Annexure-XI	47-48
14.	Annexure-XI I	50- 51
15.	Annexure-XII	
16.	Annexure-XIV	
17.	Annexure- Vakalatnama	

Signature of the Applicant

Sachin Kumar Das

6
Filed by

Mr. Kanti Majumdar
Advocate

= 2 =

AN APPLICATION UNDER SECTION 19
OF THE CENTRAL ADMINISTRATIVE
TRIBUNAL ACT, 1995

DATE OF FILING :

REGISTRATION NO.-

Signature

Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH,
GUWAHATI BET

BETWEEN

Sri Sachindra Kumar Das

S/o Late Ganga Charan Das

R/O Rly. Colony, Qtr. No. -E-45/C(Block C)

P.O. & P.S. Dimapur, District Kohima, Nagaland

.....Applicant

Vs.

Union of India & others

.....Respondents

contd...p/2

DETAILS OF APPLICATION :

1. Particulars of the Applicant :-

- i. Name Sri Sachindra Kr. Das.
- ii. F/Name Late Gonga Charan Das
- iii. Designation & Master Gratsman
office in, whi- (Technical post) in the
ch employed office of Dimapur Rly. Power House
 N.F. Rly.
- iv. Office Mater Gratsman Dimapur Rly. Power
Address House Dimapur P.O. -Dimapur
 District -Kohima, Nagaland.
- v. Address for Do
service of
- all Notices.
1. The Union of India
represented by the General Manager,
N.F.Railway, Maligaon, Assam
2. The Divisional Railway Manager(p)
N.F.Railway Lunding ,Assam,
3. The Chief Electrical Engineer,
N.F.Railway, Maligaon, Assam
4. The Chief personnel officer,
N.F.Railway, Maligaon, Assam
5. The senior Executive Engineer EMU(Electrical Deptt)
N.F.Railway ,Lunding, Assam.
3. PARTICULARS OF ORDERS/ACTION AGAINST WHICH THE APPLI-
CATION IS MADE :

The present application is made against the following action :

1. Illegal and arbitrary action to pass any reasoned and justifiable order against his prayer for correction of the date of birth of the Applicant as per the materials produced by the Applicant while submitting his Appeal/Representation.

ii. Illegal and arbitrary denial to dispose of the Appeal/Representations and keeping the same pending without any intimation to the Applicant.

iii. Illegal and arbitrary refusal to correct the incorrect date of birth as per the available materials produced by the Applicant long back.

iv. Illegal and arbitrary action compelling the applicant to go on 10 years early superannuation/Retirement purportedly w.e.f. 29-2-96.

4. JURISDICTION OF THE TRIBUNAL :

The Applicant declares that the subjectmatter of the action referred to above against which he is now praying for redressal, is within the jurisdiction of this Hon'ble Tribunal.

5. LIMITATION :

The applicant further declares, that the present application is within the limitation of this Hon'ble

contd...p/4

Tribunal as prescribed in section 21 of the Central Administrative Tribunal Act, 1985.

6. FACTS OF THE CASE :

The facts of the case are given below :

- i. That the Applicant is a citizen of India and at present residing at Dimapur town in the district of Kohima, Nagaland and as such he is lawfully entitled to be protected under the Constitution of India.
- ii. That applicant an employee of the N.F. Railway. At present he is working as Master Craftsman at a scale of Rs.-1720/- to Rs.- 2400/- per month. The said post is a technical post and since 1978 the Applicant has been the said post in the office of Dimapur Railway power House, Dimapur under N.F. Railway Maligaon.
- iii. That in 1967, the Applicant was appointed as casual worker in the office of Divisional Manager, N.F. Railway at Lunding and he worked in the said capacity continuously and without any break.
- iv. That later on, in 1972 he appeared in selection test duly conducted by the Authority for the purpose of regularisation of his service of all casual workers. The Applicant however, qualified himself and his service was accordingly regularised as Grade-I V Khalashi.

contd..p/5

The applicant thereafter, joined in the said post on 1-2-72 in the Engineering Deptt. N.F. Railway, Lunding.

v. That in 1976 the Applicant was promoted to the Grade-II post of station Pump Attendant (SPA) in pursuance of a fresh selection conducted by the selection committee. The said selection was made on the basis of merits having due regard to the seniority.

vi. That again in 1981, another departmental selection, the Applicant was promoted to the Grade-II post of station Pump Attendant.

Subsequently, he was again promoted to the post of Grade-I(SPA). Thereafter the Applicant was further promoted to the post of Master Crafts Man (MCM). At present the Applicant is working as senior MCM (Technical post) in Dimapur Railway power House Dimapur Control of senior Executive Engineer DMV (Electrical Deptt) N.F. Railway.

vii. That the present application is being preferred against the illegal and arbitrary action of the Respondents in denying to dispose of the Representation/ Appeal as preferred by the Applicant from time to time since long where in the Applicant has made a prayer for correction of his date of Birth as recorded by the Authority in his service Book. The Respondents however, did not give any reason against the withdrawal of

contd...P/6

those Representations/Appeal nor did they communicate anything to the Applicant with regard to their decisions.

viii. That the service of the Applicant was regularised on 1-2-72 and at the time of regularisation of his service he was asked by the Respondents to produce the relevant documents in support of his educational qualification and age etc and the Applicant submitted the same informing the Respondents that his date of birth is 16-2-48. In support of the said date of birth, the Applicant produced an original copy of the school certificate issued by the Headmaster of the school where he studied.

v. That thereafter, on the basis of those certificates, the Applicant's service was regularised w.e.f. 1-2-72 and the Respondent had opened the service Book against the name of the Applicant on the basis of these certificates produced by him.

~~vi. That thereafter on the basis~~

gmder
vi. That the Applicant states that as per the school certificate referred to above, his date of birth is 16-2-48 and as such at the time of regularisation of his service, he was aged about 24 years which the Applicant also mentioned in the Form submitted by him for the purpose of maintaining his service Records. The applicant had his impression that his date of birth was properly and correctly recorded by the Authority on the basis of certificate he produced and at no point of time, it had come to his notice that his Date of Birth was not

contd...p/7

not properly and correctly recorded in the service Book. As result, he had no scope to make any Appeal or Representation at the intitial stage of making such wrong entry in the service book by the Respondents.

xi. That it is pertinent to mention that the service book so prepared and maintained by the Respondent authorities has along been in their custody and there was hardly any scope for Applicant to go through or check up the same and thereby find out any such wrong entry made by the Respondents relating to his service. The said service Book was never made available to the Applicant to verify each and every entry made in therein with the original records and it was only because of that, the Applicant did not have any occasion to know anything about said in correct entry against the column of Date of Birth in the service Book. The refore, under no circumstances, the Applicant can be said to be negliget or in active to do anything what he is required to do in law.

xii. That the Applicant states that he was born on 16-2-48 and in support of the said date of birth, he had produced the school certificate at the time of regularisation of his service as directed by the Authorities and they ought to have recorded his date of birth in respective column of the service Book as 16-2-48 and not otherwise and his date of actual superannuation as per the said date of birth is 28-2-2006 and there is no question to go on early

contd...P/8

14

= 8 =

superannation prior to that date which otherwise would be absolutely illegal and unconstitutional apart from being without any authority of law affecting his legal and constitutional rights to work and livelihood.

xiii. That the Applicant states that it was only in 1977, he came to know that his date of birth was not correctly recorded in his service Book when the Divisional Regional Manager (Personnel), Lunding, published a provisional Gradation list vide circular No.-196-52 dated 1-4-77. In Sl.No.-137 of the said Gradation list, the date of birth of the Applicant was wrongly mentioned as 16-2-48 instead of 16-2-48. The said circular however, invited objection to be filed in respect of any incorrect entry of the same.

A copy of the relevant portion of Gradation List dated-1-4-77 is annexed as Annexure-I.

xiv. That the Applicant immediately thereafter, filed a representation before the Respondent No.-2, the DRM (P), N.F.Railway contending that his date of birth was not correctly recorded in the said Gradation list and the same is needed to be corrected on the basis of school certificate he produced at the time of regularisation of his service which otherwise would compel him to go on early retirement of 10 years before his actual date of superannuation jeopardising his right to work and livelihood.

A copy of the Representation dated-18-4-77 is annexed as Annexure-II.

contd...P/9

xv. That the Respondent No.-2 however, did not bother to dispose of the said representation and kept the matter pending on the plea that in due course of time his prayer would be considered. The applicant yet persued the matter sincerely by making representations after representations with a prayer for giving him an opportunity of hearing. The whole contention of the Applicant in those Representations was that his date of birth was not correctly figured and recorded in the service book and he may be allowed to verify the said service Book. The Applicant undertakes to produce all those Representations before Your Lordship as and when required.

xvi. That the applicant states that except a more assurance there was total inaction on the part of the Respondent No.-2 and 3 to dispose of his Representations and/or to pass any reasoned order rejecting his prayer. The Respondents also did not communicate the fate of those representations. The Applicant was all though verbally told by the concerned authorities that due to misplacing of official records, no immediate decision is feasible.

xvii. That the Applicant under the abovementioned facts and circumstances, had nothing to do but to wait with a reasonable legitimate expectation that his case would be duly considered by the Respondents in accordance with law.

contd...p/10

xviii. That even after the lapse of certain considerable period, the Respondent authorities did not take any decision. The petitioner was however informed that he must have to wait for further period till an inquiry is duly conducted by the Department. On being acted on such bonafide and legitimate representation of the authorities, the Applicant waited for some more time expecting a reasoned order to be passed by the Respondents.

xix. That since there was no follow up action, the Applicant filed another Representation on 19-12-81 before the Respondent No.-2 with a copy to Respondent No.-1 making a prayer for immediate decision regarding the correction of his date of birth. The Respondent No..2 however, purpose fully assured the Applicant like in all previous occasions that an immediate decision would be taken by the authorities.

xx. That despite the above-mentioned assurance, the Respondent No.-1 and 2 did not dispose of his Representations nor did they reject the same on the other hand, the Respondents had published another provisional Gradation/Seniority list vide Notification No.-E/255/Seniority/ C-III dated-23-4-85^{mentioning} having the date of birth of the Application as 16-2-38 instead of 16-2-48 as claimed by the Applicant in his various Appeal/Representations. The Applicant however, inspite of his best efforts could not collect the said Notification dated-23-4-85

contd...p/11

18

¶ 11 =

and as such the same can not be produced before Your Lordship. Therefore for the interest of Justice as well as for proper and judicious adjudication of the case, Your Lordship may be pleased to direct the Respondents to produce the said Notification and Gradation List before this Tribunal at the time of final hearing of the case.

xxi. That being aggrieved by the said action of the Department, the Applicant filed a Representation before the Respondent No.-1 contending that since the entire matter is pending for final decision and an inquiry was also sought to be conducted, no decision ought to have been taken fixing his seniority and date of birth and if the date of birth is not now corrected as per the materials he produced from time to time, he would have to go on early retirement 10 years prior to his actual retirement and the same would obviously jeopardise his legal and constitutional rights to work and livelihood and the entire family and all other dependents would have to face severe economic hardships.

A copy of the Representation dated-6-5-85 is annexed as Annexure-III.

under
xxii. That thereafter the Respondent No.-2 asked the Applicant to produce all relevant documents in support of age and date of birth alongwith a fresh Representation.

contd...p/12

It may be noted that applicant was a student of Kharikhana High School, Lauka and he was ~~shodging in~~ ~~class~~ ~~V~~ at the time of issuing the transfer certificate where in his date of birth was recorded by the school authority as 16-2-48. The said certificate also shows that the Applicant left the school on 31-12-58 at the age of 10 years 10 months and 10 days.

xxii. That the Applicant thereafter submitted the said certificate alongwith a fresh Representation dated-12-12-87. The receipt of the said Representation was dully acknowledged by the Electrical Foreman N.F. Railway Dimapur vide o.p. No.-88 dated-13-2-87 who forwarded the same to the Respondent No.-1 for consideration.

Copies of the Age certificate dated-14-9-81 and of the Representation dated-12-2-87 are annexed as Annexures IV and V respectively.

xxiii. That inspite of his best efforts, the Applicant failed to evoke any response from the Respondents and accordingly he filed another representation dated-24-2-91 before the Respondent No.-1 requesting him to make an inquiry in to the matter and correct the date of birth on the basise of available materials. Since that did not yeild any result, the Applicant filed another representation dated-4-5-91 before the said Respondent No.-1

contd...p/13

informing him that he had a good number of representations since 1977 and none of those representations has been disposed of by the authorities and during the pendency of decision, published the seniority list basis of his incorrect date of birth which has seriously affected his existing legal and constitutional rights.

Copies of the Representations dated-24-2-91 and 4-5-91 are annexed as Annexure-VI~~7~~ and VII~~7~~ respectively.

xxiv. That the Applicant later on filed another representation to the Respondent No.-1 on 24-11-92 informing him that the department had illegally and unjustifiably and also without applying its mind in to the materials, published the seniority on the basis of said inaccurate date of birth and except a mere acknowledgement and empty assurance, has not done anything so far and as such an immediate decision may be taken by the authorities after considering all the materials furnished by him from time to time.

A copy of the Representation dated-24-11-92 annexed as Annexure-IX. VIII

Applicant
xxv. That on being dishearted, the Applicant on the same day i.e. on 24-11-92, filed another representation before the secretary of Mazdur Union, N.F. Railway, Lunding requesting him to take up the matter with the

contd...p/14

the Authorities since he failed to evoke any response from the Respondents. It was contended there that unless his matter is considered, he would have to go to early retirement of 10 years before his actual superannuation. The said Secretary however, assured the Applicant to refer the matter so that it may be settled expeditiously.

The said matter was thereafter, referred by the said secretary who asked the Applicant to pursue the matter personally. The Applicant accordingly pursued the matter regularly but without any result.

A copy of Representation dated-24-11-92 is annexed as Annexure-X.

xxvi. That from 1992 to 1995 on a number of occasions, he approached the Respondents and filed several representations. The last representation he had submitted was in the month of ^{September} ~~July~~, 1995 contending that his date of retirement was directed to be fixed by the Authorities w.e.f. 29-2-96 on the basis of that wrong date of birth recorded in the service Book. Thus if no immediate action is taken in this regard, he would be made to go on premature retirement on 29-2-96 which would amount to unauthorised compulsory retirement.

Muzender
A copy of one of those Representations dated-7-10-95 is annexed as Annexure-XY.

contd...P/15

xxvii. That the Applicant states that in support of his contentions, he has also submitted an Affidavit duly sworn by him before the Competent court alongwith a copy of Horoscope. It is need less to mention that the said Horoscope tallied the date of birth as recorded in the school certificate. According to the said Horoscope, the petitioner's date of birth is 16-2-48.

A photo copy of the Horoscope is annexed as Annexure-XIX.

xxviii. That the Applicant states that in order to get justice, he moved from petter to post. The Applicant made another representation in the month of December 1995 before the Respondent No.-1 with copies to all other Respondents contentting that he was denied opportunity of hearing and all those representation he had filed in 1977 on words. It was further contended that his seniority ought to have been determined after deciding the question of date of birth on the basis of the documents he furnished as per the direction of the authorities in as much as he is lawfully entitled to be considered in accordance with law and that right can not be taken away without reason and justification.

M. G. Mohan
A copy of the Representation²⁰⁻¹²⁻⁹⁵ is annexed as Annexure-XIIX.

xxix. That the Applicant states that his eldest brother Sri Sudhanya Chandra Das is also a Railway

= 16 =

employee who was born on 10-6-42 as it appears from Gradation/Seniority 1st dated-1-4-77(Annexure-I) and his brother would go on retirement on 30-6-/2000. But the Applicant inspite of being younger to him was shown to have attained his superannuation age 6 years prior to the retirement of his eldest brother.

It may be noted that the age of superannuation of all the employees of Railway Deptt. is 58 years and since the Applicant was born on 16-2-48, his actual date of Superannuation should be 28-2-2006. In support of the said date of birth, the Applicant submitted a school certificate and Horoscope but the Respondents without any application of mind and reason, straight way discarded the same and illegally and arbitrarily recorded his date of birth as 16-2-38 in the Gradation listed dated-1-4-77 and 23-4-85.

xxx. That the Applicant states that his father Late Ganga Charan Das died leaving behind 5 sons including the Applicant and 1 daughters and the Applicant is the 3rd child. The Applicant begs to mention herein below geneology of late Ganga Charan Das showing their respective age.

Ganga Ranjan Das Age as on December, 1995

-
- | | | | | |
|-------------|----------------|--------------|------------------|---------------|
| 1. Sudhemya | 2. Madan Mahan | 3. Sachindra | 4. Narayan | 5. Monju Bala |
| Chandra Das | Das | Kumar Das | Chandra Das | Das |
| (54) years | (50 years) | 48 years) | (Since disceased | 46 years |
6. Madav Ch. Das (42 years)

Alleged

Therefore under no circumstances, the Applicant can go on retirement before his eldest brother Sri Sudhanya Das which otherwise would amount to compulsory retirement affecting his legal and constitutional right to work and livelihood.

xxxi. That the Applicant states that the right to be considered is also a legal right and the Respondents are lawfully bound to consider his case by way of taking a reasonable decisions after affording a reasonable opportunity of personal hearing to the Applicant and denial of the said right amounts to denial of his legal and constitutional right to employment and livelihood as guaranteed under Articles 19 and 21 and the same is without jurisdiction.

xxxii. That the applicant states that as per the S.R. 8(c), the Respondents are bound to hold an inquiry and dispose of the matter lawfully after giving the applicant a reasonable opportunity of hearing and as such the non-compliance with the said provisions of law, has taken away the legal and constitutional right of the applicant in an arbitrary and unfair manner and the entire action in fixing the date of birth and the seniority is vitiated seriously by the vice of arbitrariness and unfairness and the said action is liable to be struck down for violation of natural justice.

contd...p/28

xxxiii. That the applicant states that the entire action of the Respondents is illegal and arbitrary and it has affected his legal and constitutional right apart from vitiating the fairness of administrative function. Hence the proposed retirement of the applicant is liable to be struck down and quashed.

xxxiv. That the applicant states that the Respondents being a quasi judicial authority are under legal and constitutional obligation to act judiciously while dealing with the valuable rights of the Applicant and can not capriciously. It is a settled law that the executive no less than judiciary is also under general duty to act properly and in that regard fairness being the basis of their action and the said action can not go against the mandates of Article 14 and 16 of the Const. of India.

xxxv. That the Applicant states that since 1977 the Respondents have assured to consider his case and the Applicant has bonafidely acted upon such assurance and waited with a reasonable and legitimate expectation that his case would be duly considered by the Respondents in accordance with law after giving an opportunity of hearing to him and as such denial of such bonafide, reasonable and legitimate has amounted to denial of his legal right.

xxxvi. That the Applicant states that the right to know is a fundamental right to freedom of speech as guaranteed under Article 19 of Const. of India and by virtue of that right, the Applicant is lawfully entitled

to know the reason against the non consideration or rejection of his case by the Respondents and the Respondents can not keep the matter under the veil of secrecy and/or to deny to disclose the reason their decisions and as such the entire action of the Respondents is liable to be struck down.

SUBMISSIONS OF THE APPLICANT

1. That the applicant submits that his date of birth is 16-2-48 on basis of school certificate he produced before authorities at the time of regularisation of his service. But the said date of birth was denied to be recorded correctly by the Respondents as per the said school certificate and directed the applicant to go on superannuation w.e.f. 29-2-96 on the basis of said incorrect date of birth. As such the action of the Respondents is illegal and without authority of law being violative of the mandatory provisions of F.R. and S.R. and of Railway Regulations in as much as no enquiry was held by the Respondents before taking the impugned action.

Aminder
ii. That the Applicant submits that in view of provisions of S.R. 8(c), the Respondents ought to have made an inquiry into the correctness of the date of birth. But the Respondents without holding any such inquiry and also without giving opportunity of hearing, took the impugned action in directing early retirement of the applicant which has rendered the entire action to be illegal and without authority of law.

contd...p/20

= 20 =

iii. That the Applicant submits that S.R.(C) contemplates that if there is any dispute regarding the date of birth recorded in the service book and there is some prima facie evidence, the competent authority should hold an inquiry in the matter for a decision and in such enquiry, the principles of Natural Justice should be followed. Thus in view of said provisions of S.R.8(c), the Respondents have committed a serious illegality in not holding any enquiry before passing the impugned order of early retirement and the same is liable to be set aside and quashed.

iv. That the applicant submits that the action of the Respondents in not rectifying or correcting the date of birth on the basis of the materials or evidence on record has amounted to punishment of compulsory retirement as held by Apex court and the said action is liable to be struck down.

v. That the applicant submits that he came to know about the said incorrect date of birth in 1977 when the impugned provisional Gradation List was published by the Respondents and the applicant had immediately thereafter filed representation and as such the prayer for correction of date of his birth was made within stipulated period of 3 years prior to the date of superannuation and the Respondents are lawfully bound to entertain the said prayer of the Applicant and the denial of the same has amounted

contd...p/21

Myanmar

to denial of his legal and constitutional rights.

vi. That the applicant submits that the principles of Natural Justice demands that in cases where a dispute has raised with regard to the age of Govt. servant, he should have been an opportunity of hearing to prove his correct age. In the instant case, when the applicant was denied such opportunity, the action of the Respondents has violated Article 311 of the Const. of India.

vii. That the applicant submits that the right to work has been recognised by the constitutional makers as well as the Apex court and all the High Court to be one of the highest legal constitutional right directing the State and its instrumentalities not to take away the said right except in appocedure established by law. Thus when the applicant's right to work and livelihood has been taken away in an arbitrary wasy having no sanction under law, the same is violative of Articles 19 and 21 of Const. of India.

viii. That the applicant submits that the equal opportunity and equal treatment in the matter of employment is one of the basic fundamental rights of the citizens and the same can not be taken away, except in a procedure established by law as guaranteed under Article 14 and 16 of the Const. of India.

ix. ~~That the applicant submits that the entire action of the Respondents being illegal unjust improper,~~

contd...p/22

= 22 =

ix. That the applicants^{submits} that the impugned retirement order having been passed in violation of provisions of law, amounts to illegal removal and/or dismissal from service and the said removal or dismissal order having directed be issued without giving any opportunity of hearing or notice, is a serious violation of Article 311(2) of the Const. of India. Hence the same is liable to be set aside and quashed.

x. That the applicant submits that the entire action of the Respondents being illegal unjust improper, unconstitutional and discriminatory as apparent on the face of the records causing a serious injustice to him. the impugned action is liable to be struck down.

xi. That the Appellant submits that denial to hold enquiry and/or to dispose of the Appeal/representation in accordance with law amounts to serious abuse of power resulting into glaring miscarriage of justice. Thus on that score alone, the impugned action is liable to be struck down.

xii. That the Appellant submits that the impugned action is not innocuous or an order simpliciter in as much as the Respondents have acted malafidely and arbitrarily with malafide intention to achieve oblique motive to accomodate another person and also against all well settled principles of law and provedure taking away the

contd...p/23

M. G. M. M.

legal and constitutional right of the Applicant. Hence the impugned action is liable to be struck down.

xiii. That the Applicant submits that the action of the Respondents is a serious violation of principles of Natural Justice and Administrative Fair play for not giving minimum opportunity of hearing to the Applicant and on that point of view, the impugned action is liable to be struck down.

xiv. That the applicant submits that the impugned action of the Respondents in compelling him to go on 10 years early retirement without giving him any opportunity of hearing is discriminatory being hit by Articles 14 and 16 of the Const. of India.

xvi. That the Applicant submits that the impugned action was taken without considering the records and the same is not sustainable in law..

xvii. That the in any view of the matter impugned action is otherwise bad in law and the same is liable to be struck down.

xviii. That there is no efficacious alternative remedy available to the Applicant and the remedy sought for would be just proper adequate and complete.

That this petition has been filed bonafide and for ends of justice.

= 24 =

7. RELIEFS SOUGHT FOR :

In view of the facts and circumstances made in paragraph 6 above, the Applicant prays for the following reliefs.

- a. Quashing the impugned action directing the Applicant to go on retirement w.e.f. 29-2-96.
- b. Quashing the impugned action in refusing to dispose of the various Representations /Appeal and/or to consider the Applicant's case and to pass a reasoned order.
- c. Quashing the impugned provisional Gradation list dated 1.4.77 respectively showing the date of birth of the Applicant as 16-2-38 instead of 16-2-48.
- d. Quashing or striking of the incorrect date of birth of the service Book.
- e. a direction to the Respondents to correct the incorrect date of birth of the Applicant in the service Book and also in the Gradation list dated
- f. a direction to the Respondents to dispose of the Representations/Appeal as filed by the Applicant from time to time and to pass a reasoned and speaking order after hearing the Applicant.

contd...p/25

Indyander

g. a direction to the Respondents to withdraw the order of retirement if any has already been passed by them.

h. a direction to the Respondents not to pass any order of retirement and to allow the Applicant to continue his service upto 29-2-2006 as per the exact date of birth on the basis of record and to pay his salary and all other service benefits as admissible under Rules and/or grant of any other appropriate relief or reliefs so as to render full justice to your applicant.

8. INTERIM ORDERS IF PRAYED FOR:

Dalip Singh
The applicant states that he is a regular employee of Railway department. He was born on 16-2-48 and he produced school certificate before the Respondents at the time of regularisation of his service subsequently in 1977, the Applicant came to know that his date of birth was not correctly recorded by the department. The applicant since then submitted representations before the Respondents alongwith the relevant documents in support of date of birth and age. But the Respondents did not dispose of any of those representation and the Applicant was not also communicated anything regarding the fate of those representation. Now as per the date of birth recorded by the Respondents, the applicant would go on retirement w.e.f. 29-2-96.

The Applicant therefore, prays for an interim order directing the Respondents not to reove the Applicant from service w.e.f. 29-2-96 and/or not to give effect to the perposed retirement of the Applicant and/or to allow the Applicant to continue in his service with salary and all service benefits as admissible under Rules pending final disposal of the case before this Hon'ble court.

9. DETAILS OF REMEDIES EXHAUSTED :

The Applicant had filed 1st representation on 18-4-77 before Respondent No.-3 immediately after he came to know about the Gradation list dated 1-4-77 (Annexure I). But the said representation was kept pending for indefinite period without taking any decision what-so-ever.

The Applicant again on 19-12-81 filed another representation before the Respondent No.-2 with a copy to Respondent No.1 making a prayer for immediate decision regarding the correction of date of birth. The Respondent No.-1 and 2 did neither dispose of those representations nor did intimate anything to the applicant and published another Notification on 23-4-85 mentioning the said incorrect of date of birth.

Against the said notification, the Applicant filed a fresh representation before the Respondent No.1 on 6-5-85 praying for correction of the said date of birth

contd....p/27

= 27 =

Since there was no disposal, the applicant filed another representation on 12-12-87 before the Respondent No.-1 for consideration of his case on the basis of the available records.

Having failed to evoke any response the applicant filed a fresh representation on 24-2-91 before Respondant No.1 requesting him to make an enquiry into the matter and pass a reasonable order.

Again on 4-5-91 the applicant filed a reminder before the said Respondent No.-1 informing him that all those Representations are kept pending without any decision and pending decision the date of superannuation has been fixed on the basis of incorrect date of birth.

Similarly on 24-11-92 the applicant filed 2 separate representation before Respondant No.-1 and the secretary of the Mazdoor Union N.F. Railway Lunding requesting to take up the matter with the management, but without any result.

From 1992 to 1995 on several occasions the applicant filed several representation before the Respondents and last representation was filed on 20-12-95 but those representation did not yield any result and Respondents without hearing the applicant and also without disposing the representations fixed the date of Superannuation-

contd...p/28

Mazdoor

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on 29-2-36. Hence this application.

10. That applicant further declares that, the matter regarding which this application is made is not pending before any court of law or any other authority or any other branch of tribunal.

11. That the particulars of Bank Draft/Postal order in respect of application fee.

- i. Nos of Indian Postal order -
- ii. Name of Issuing post office -
- iii. Date of Issue
- iv. Name of post office at which payable-

12. LIST OF DOCUMENT (S)

1. Circular No. 196-52 dated issued by DEM
C Per Lunding dated-1-4-77 publishing
gradation List wherein the date of birth of
the applicant is wrongly mentioned as 16-2-38
instate of 16-2-48 Annexure (i)

2. Representation dated-18-4-77 submitted
by applicant to Respondent No.2 praying
for correction of wrong date of birth on
the basis of certificate he produced at
the time of regularisation of his
service Annexure (ii)

contd...p/29

Original

= 29 =

2. Representation dated-18-4-77 submitted by applicant to Respondant No.-2 praying for correction of wrong date of birth on the basis of certificate he produced at the time of regularisation of his service Annexure-ii-
3. Representation dated-6/5/85 submitted before Respondant No.1 with a prayer for correction of date of birth Annexure-iii.
4. Scheet certificate dated 14-9-31 issued by Head Master of knowledge High Court school Lonka, specifying the date of Birth as 16-2-48 — Annexure-iv
5. Representation dated 12-2-37 filed before the Respondant No.1 praying for correction of date of birth Annexure V.
6. Representation dated-24-2-93 and 4-5-91 respectively made before said Respondent No.1 praying for disposal of the representation of the giving him an opportunity for hearing Annexure VI & VII
7. Representation dated 24-11-92 made before Respondant No.1 for correction of the wrong date of birth Annexure-VIII

contd...p/30

My mother

= 30 =

8. Representations date 24-11-92 made before the Secretary of the Union NF Railway Lunding requesting him to take up the matter with the authority so that early anducision may be taken by the authoority Annexure-IX
9. Representation dated-7-10-95 filed before the Respondants contending that the date of birth was wrongly recorded by the authority as a result he would have to go on pre-mative retirement and as such the same in needed to be corrected as per law Annexure-X
10. Horoscope specifying the date of birth of the ~~date-of-birth-~~ petitioner Annexure-XI
16-2-48
11. Representation dated 20-12-95 filed before Respondant No.1 contending that he was denied opportunity to hearing and either of his sepresentation was disposed of and he wasa not communicated with the result of the representation so a immediate decision may be taken. Annexure-XII

contd...p/31

VERIFICATION

I, Sri Sachindra Kumar Das do hereby verify
that the paragraphs made in this application are true
to my knowledge, belief and information and I sign this
verification on this 27th day of February 1996.

Sachin Das K Das

Signature

Sachin Das

Seated by 1st of March () 196-52/- () 1.477.
Under sub-division

S/N	Name	Station	D/birth	D/Appnt.	Confid.	Whether SC/ST	Length of service			Remarks
							Y	M	D	
1							26		6	Offg. ELF (P)
1	Sri Kanki Rn Nay,	IMG	25.11.25	25.11.50	Confid.		19	11	10	Now W/Man
2	" Lal Mohan Das,	BFB	11.7.36	21.4.57	-do-		13	10	25	Conf. ELF/P.
3	" Nira Jahn Chakraborty	BFB	8.10.33	2.5.58	-do-		13	8	25	-do-. Appointed direct
4	" Ketan Chakraborty	IMG	25.3.38	6.7.58	-do-		17	8	25	as BTM/ELF, service adjusted
5	" Sushil Ch Dey	BFB	22.8.42	10.6.67	-do-					to the extent of his junior.
6	" Subal Ch Dey,	IMG	1.3.36	6.7.59	-do-		17	3	25	
7	" Sadhan Ch Debrath,	IMG	17.7.38	16.6.59	-do-		17	6	15	Offg. ELF.
8	" Hari Jeswara,	IMG	1.7.41	21.9.59	-do-		17	6	10	
9	" Parimal Kanti Roy,	IMG	1.1.37	1.3.61	-do-	SC	16	1	0	Service adjusted to the
10	" Sailesh Ch Das,	KXJ	28.8.35	28.7.62	-do-		14	8	6	extent of juniors.
11	" Chitta Rn Chakraborty	BHE	30.4.38	25.7.62	-do-		14	8	6	
12	" Nalini Kanta Gogoi,	IMG	1.11.38	25.7.62	-do-	SC	14	8	6	Offg. ELF (P)
13	" Anup Kr Roy,	BFB	1.4.39	25.7.62	-do-		14	8	6	Offg. L/Man.
14	" Sanatan Singh,	YH	1.4.39	25.7.62	-do-		14	8	6	Offg. M/R.
15	" Paresch Ch Dey,	BFB	18.9.38	25.7.62	-do-		14	8	6	Offg. L/Man. Service let
16	" Parimal Ch Singhar,	DMV	28.9.38	25.7.62	-do-		14	8	6	lled down to the exte
17	" Somendra K Acherjee	BAB	30.6.39	24.7.62	-do-					ceptors.
18	" Sunil Ch Chakraborty	IMG	9.5.40	1.12.62	-do-		14	4	0	
19	" Falakdhari,	BAB	1.1.37	2.12.62	-do-		14	3	29	Now SPA.
20	" Prafulla Kr Singh,	IMG	3.5.41	25.1.63	-do-		14	2	6	-do- L/Man
21	" Bhupesh Ch Duttagupta,	"	28.12.41	25.1.63	-do-		14	2	6	
22	" R.L.Bhattacharjee,	SCL	3.5.41	31.1.63	-do-		14	2	1	Offg. L/Man.
23	" Gopal K Chakraborty,	BFB	26.8.35	6.2.63	-do-		14	1	25	
24	" Krishna Mohan Datta,	IMG	7.6.39	6.2.63	Offg.		14	1	25	SPA/Offg.
25	" Anil Kr Dey,	DMV	2.5.44	19.4.63	Confid.		13	11	12	Station
26	" Manik,	IMG	6.7.43	26.4.63	-do-		13	11	5	
27	" Jitendra N Das,	IMG	6.7.42	10.5.63	-do-		13	10	21	
28	" Dharendra Kr Dey,	IMG	6.7.37	22.5.63	-do-		13	10	10	

attested by
A.K. Purkayastha
Advocate
24-2-96

(33)

1	2	3	4	5	6	7	8	9	10	11	12
111.	Sri H. Anghu Bipul Chowdhury,	ENG	1.7.43	1.9.39	Confid.	-	7	7	0	-	-
112.	" Haran Bezbaruha,	DW	3.2.47	1.10.39	Offg.	-	7	6	0	-	-
113.	" Cheddilal,	DW	1.3.50	1.10.39	"	SC	7	6	0	-	/Read off.
114.	" Bikash Kr Das,	ENG	1.1.45	1.10.39	"	-	7	6	0	-	-
115.	" Rabindra Nath Dutta,	ENG	22.1.46	1.10.39	"	-	7	6	0	-	Now SPA.
116.	" Bankim Chandra Paul,	ENG	1.3.47	1.10.39	"	-	7	6	0	-	-
117.	" Narayan Ch Das,	DW	20.4.48	1.10.39	"	-	7	6	0	-	-
118.	" Haripada Das.	ENG	1.7.49	1.10.39	"	-	7	6	0	-	-
119.	" Biswanath Mukherjee,	ENG	1.2.50	1.10.39	"	-	7	6	0	-	-
120.	" Swarnan Kanjilal,	BIB	18.2.50	1.10.39	"	-	7	6	0	-	-
121.	" Pradyumn Ch Das,	DW	2.1.43	1.10.39	"	SC	7	6	0	-	-
122.	" Ashir Ch Das,	BIB	1.5.43	1.10.39	"	-	7	6	0	-	Now FCD.
123.	" Tej Bhaksh,	ENG	5.9.43	1.10.39	"	-	7	6	0	-	-
124.	" Ashok Kumar Das Gupta,	ENG	2.7.48	13.3.70	"	-	7	0	13	-	-
125.	" Hriday Rn Chakraborty,	ENG	1.7.48	27.3.70	"	-	7	0	4	-	-
126.	" Gobal Chandra Ghosh,	ENG	29.5.50	22.7.69	"	-	7	0	4	-	-
127.	" Ajit Sarkar,	ENG	1.9.49	16.3.70	"	-	7	0	4	-	-
128.	" Anil Kumar Das,	BFB	26.4.49	19.3.70	"	-	7	0	4	-	Now SPA
129.	" Rudheshyam Das,	ENG	1.3.47	21.3.70	"	-	7	0	4	-	-
130.	" Wilay Kanta Dey,	ENG	5.10.50	26.3.70	"	-	7	0	4	-	Now SPA.
131.	" Hriday Ranjan Dhar,	BFB	8.5.50	25.3.70	"	-	7	0	4	-	-
132.	" Saral C Kr Sengupta,	ENG	23.5.48	25.3.70	"	-	7	0	4	-	-
133.	" Satya Ranjan Acharjee,	ENG	4.4.49	5.5.70	"	SC	6	10	26	-	-
134.	" Manik Ch Das,	BFB	18.5.50	18.6.70	"	-	6	2	13	-	Transferred to GHY as ACCA.
135.	" Nikhilesh Dutta,	ENG	4.7.48	1.4.71	"	-	6	0	0	-	-
136.	" Kiran Ch Hazarika,	BFB	25.1.44	1.2.72	-do-	SC	5	2	9	-	Transferred from Engg. deptt now SPA.
137.	" Sachindra Kr Das,	DW	16.2.38	12.5.72	"	-	4	10	19	-	-
138.	" Ram Prasad Mandal,	ENG	5.2.46	5.5.73	"	-	3	10	26	-	-
139.	" Rabindra N Bhattacharjee,	ENG	23.2.55	4.7.73	"	-	3	8	27	-	-do-
140.	" Aswini Kr Das,	DW	20.1.30	18.8.73	"	-	3	7	13	-	-
141.	" Subodh Ch Das,	BFB	19.1.50	31.12.35	"	-	1	8	10	-	Transferred from Mech. deptt. on bottom seniority.
142.	" Bimal Kr Sarkar,	ENG	15.1.46	31.7.75	"	-	1	0	15	-	Transferred from DSFE on bottom seniority.
143.	" Bimal Ch Ghosh,	BFB	15.1.35	4.4.63	"	-	1	0	11	-	-
144.	" Hirendra Ch Das,	BFB	30.1.51	4.11.73	"	SC	1	0	11	-	-
		SCL		20.3.76							

attached by
A.K. Puri/Hayas/Ma
Adm. Secy
27.2.96

pose.

for Divisional Supt. (P)
W.T. Railway/Landing

contd.....5/-

ANNEXURE-II

To

The Divisional Railway Manager(Personnel)

N.F. Railway, Lunding, Assam

Dated-18-4-77

Sub : Prayer for correction of the date of birth
as recorded in the gradation list
dated-1-4-77.

Sir,

With respect of above-mentioned subject matter,
I most respectfully state that I was born on 16-2-48
and at the time of regularisation of my service, I was
asked to produce the relevant documents in support of
my qualification age and date of birth and accordingly
I submitted the necessary documents before the authority
and on the basis of those documents, my date of birth
was recorded as 16-2-48 in the service book.

Subsequently, on 1-4-77, the department has
issued a Gradation list wherein my date of birth was
wrongly recorded as 16-2-38 instead of 16-2-48 and
on the basis of said wrong date of birth, the date of
superannuation was fixed to be 29-2-96. While publishing
the said Gradation list, the authority has also invited
objection from the concerned person in respect of any
entires made in the said Gradation list.

contd... p/2

Attested by
M. G. M. S.

ANNEXURE - II

= 2 =

Accordingly, I am now submitting the present representation with a prayer for correction of the said date of birth which otherwise would force him to go on early retirement of 10 years before the actual date of retirement. In that regard I would further like to state that as per the statements I made in the original application as well as on the basis of the school certificate and other relevant documents I submitted at the time of regularisation of my service as directed by the authorities, my date of birth should have been recorded as 16-2-48 and not as 16-2-38 and if the same is not now corrected by the Your Honour, I would suffer immense loss and hardships and my right to work and livelihood would serious be jeopardised.

It is therefore, prayed that your Honour may be pleased to consider this representation after hearing me in person and issue necessary direction to the concerned authority to correct the said uncorrect date of birth in accordance with law.

For this act of kindness, I shall ever pray.

Yours faithfully,

Sachindra Kumar Das

18-4-77

Attested
by
M. G. Mohan

ANNEXURE -III

To,
The General Manager,
N.F. Railway, Maligaon Assam

6-5-85

Sub :- Prayer for correction of date of birth
as recorded on the Gradation List
dated-1-4-77.

Sir,

With respect of above on 16-2-48 and as per the rules, at the time of regularisation of my service. I produced the relevant documents including original school certificate in support of my age, date of birth and qualification before the authority and on the basis of these certificates, my date of birth was recorded as 16-2-48 in the service book since then I have been in continuous service without any blamish being raised against me from any counter,

Later in 1977, the department issued a Gradation list dated-1-4-77 wherein my date of birth was wrongly recorded as 16-2-38 in place of 16-2-48 and the basis of that wrong date of birth, the date of my superannuation was fixed to be 15-2-96. It may be noted that while publishing the Gradation list, the authority also had invited objection from the concerned persons in respect of any anomalies regarding the date of birth as recorded in the said Gradation list.

Accordingly I submitted representation before the authorities praying for immediate correction of said incorrect date of birth. I also prayed for correction of date of my Superannuation. In support of my contentions I submitted

contd...p/2

Attested
by
M. K. G. M. S.

Annexure-III

= 2 =

necessary and relevant certificate before the authorities. But till to date nothing was done by them. I was not also intimated anything about the fate of my representation. Despite repeated reminders, the authorities kept the matter pending without any reason and justification.

I further beg to state that if the date of birth is not corrected and/or no immediate direction is issued by Your Honour directing the authorities to dispose of my representation and pass a reasoned order and thereafter correct date of birth which otherwise would compel him to go on premature retirement of about 10 years jeopardising his livelihood.

It is therefore prayed that Your Honour may be pleased to be pleased to consider this representation after hearing me in person and issue necessary direction to the concerned authority to correct the said date of birth on accordance with law.

For this act of kindness, I shall ever pray.

Yours faithfully

Sachindra Kumar Das

6-5-85.

*Alkesh Das
Sachindra Kumar Das*

Assam Schedule XII (Part I) Form No. 68.

ANNEXURE-IV

Transfer Certificate

CERTIFIED that Shri/Miss Sachindra Kr. Das.son/daughter of Mr. Ganga Charan Das an inhabitant of Lanka.in the district of Nowgoan left theSchool on 31.12. 1958 His/Her age at that dateaccording to the Admission Register was 10 (ten) years,10 (ten) months 15 (fifteen) days. ^{Date of Birth} was 16.2.48.He/She was reading in class V and ~~had/had not passed the examination for promotion to class~~All sums due by him/her have been paid viz. fees, fines etc. upto Dec/1958. (date)Character - Good.

- Reasons for leaving :
1. Unavoidable change of residence.
 2. Ill health.
 3. Completion of the school course.
 4. Minor reason.
 5. Guardian's option.

attested by
A. K. Puri
Adviser
27.2.96

Dated 14/9/ 1981

M. Li
Headmaster,

Headmaster School.
Kharikhana High School
Date.....

ANNEXURE-V

To
The Divisional Railway Manager(P)
N.F. Railway/Lumding.

(Through proper channel)

Sir,

Sub: Record of incorrect date of birth.

Ref: Prov. Seniority list of SPA.

Your kind attention is drawn to the previsional seniority list issued under No. E/255/Seniority/CIII dtd. 23/4/85. It is seen that my date of birth has been shown as 16-2-38 vide item 34 of the said list. But as per my school leaving certificate the same was 16-2-48 (Prctestat copy enclosed). I shall be obliged if you kindly look in to the matter and set right the discrepancy at the early date.

Da/1

Dtd. the 12th Feb./87

Yours faithfully

Sachindra Kr. Das

SPA under EF/DMV

*Albinder
Mulliyil*

ANNEXURE-VI

To 24-2-91
The D.R.M. (P)
N.F. Railway
Lumding

Sub : Rectification of date of birth

Dear Sir,

This to bring to your notice that I am an employee of S.P. A. under Sr. EF/DMV at Dimapur.

That Sir, as per circular No. 196-52 (....)

Sl. No.137 dt. 1-4-77 I came to know that my date of birth is written as 16-2-38 instead of 16-2-48. The date which was recorded in my service book differs from my actual date of birth which will make me trouble at the time of retirement.

I hope you will understand my problem and make the necessary correction

Dated-24-2-91

Copy to
Secretary,

Mazdoor Union for information
only Dimapur.

Yours faithfully
Sachindra Kr. Das.

Sri Sachindra Kr. Das

SPA/Sr/EF/DMV

*Attested by
Mazdoor*

ANNEXURE- VII

4-5-91

To

The D.R.M. (P)

N.F.Rly.

Lumding.

Respected Sir,

Enclosing herewith a copy of my pervious letter dt. 24-8-91 requesting you to rectify the records in your office with regard to my date of birth, I request you to kindly let me know the action taken in the matter as I am greatly worried about the same.

You will surely appreciate my concern as I find in the circular No. 196 -52() sl.No.137 dt.1-4-77 that my date of birth has been recorded as 16-2-38 instead of 16-2-48.

I hope you will not spare to extend your good office to rectify the same at thebest possible convenience.

Dated 4-5-91

Yours faithfully

Copy to:

The Secretary

Mazdoor Union

N.F.Rly.

Lumding Assam

Schindur Kumar Das

SPA/ Sr. Ef/DMV

Handwritten signature

ANNEXURE-VIII

To

24-11-92

The General Manager,
N.F. Railways,
Maligaon, Assam

Respected Sir,

Sub., Rectification of date of birth in
service record.

I regret to up on your valuable time in a very tiny but a serious matter. That Sir, Made some correspondence regarding the rectification of my date of birth in my service record which was recorded as 16-2-38 instead of 16-2-48. But I regret to mention here that a series of letter written to D.R.M.(P) Lunding but unfortunately no reply as yet been received by me. I fail to understand the silence of D.R.M.(PP to communicate the fate of my letter.

As such I have no other alternative but to write you regarding the fact. I also like to request you to look into the matter and do the necessary arrangement to rectify the date.

Yours faithfully

Sachindr Kumar Das

(Sachindra Kumar Das)

dated-24-11-92

MCM/SPA/DMV

*Alister
Mishra*

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ANNEXURE -IX

To,
The Secretary
Mazdoor Union
N.F.Rly.
Lumding

24-11-92

Dear Comrade,

I regret to intimate you that I am a vatern member of Mazdoor union but I don't understand why I am being de from getting my genuine demand.

That I am not a defaulter member and regularly attend the office and remain present in different occation of the union activities.

Often I requested the unit authority that date of birth was wrongly recorded as 16-2-38 instead of 16-2-48 There is a difference of 10 years. I also have requested the unit authority to take proper initiative to rectify the date. But till today I have got no response, moreover no action so far been taken to do the necessary correction.

Since I am a member of this union, so this is my genuine demand from the union. I have decided to chage the membership from the Mazdoor union to Employees union to sort out my the probelm if it becomes impossible from your end.

I therefore expect that you will not provide me any opportunity to change my membership and take the necessary step to do the same.

Dated-24-11-92

Comradely yours

(Sachindra C
Sachindre a kr das
k. a

Handwritten note:
Sachindra C
Sachindre a kr das
k. a

ANNEXURE-X.

To,

The Divisional Railway Manager, (P),
N.F. Railway, Lumding.

Sub.:- Prayer for consideration of my case.

Sir,

With regard to above-mentioned subject matter, I beg to state at present I am working as Master Craftsman in Dimapur Railway Power House, Dimapur.

I was born on 16-2-48 and at the time of my appointment and also at the time of regularisation of my service I submitted relevant documents including the school certificate in support of my date of birth, age and qualification etc. and my date of birth was duly and correctly recorded by the authority as 16-2-48 on the basis of the said school certificate in my service book. At no point of time, I was told anything regarding the said date of birth and the service book was all along in actual possession of the authority.

It was only on 1-4-77, the authorities had for the first time informed me that my date of birth was recorded as 16-2-38 and not 16-2-48 and as per the said date of birth, ~~was xxxxxxxx~~ the age of my superannuation ~~and~~ was fixed to be 29-2-96 which has now forced me to go on early retirement of 10 years and that too in an arbitrary and unfair manner. In that regard, I was however, asked to submit representation.

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*Atkashy
M. G. G. G.*

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Immediately thereafter, I filed representation against such illegal fixation of age superannuation and prayed for correction of my date of birth on the basis of school certificate I submitted before the authorities at the time of regularisation of my service.

In that representation I contended that my date of birth is 16-2-48 as it appears from the school certificate and difference of 10 years between actual date of birth and recorded date of birth has not only taken away my legal and constitutional right to work and livelihood, but has also compelled to be ousted from service 10 years before my actual superannuation. I also contended that on the basis of school certificate which I was asked to submit at the time of regularisation of service, my date of birth was recorded by the authorities and as such the fixation of age of super-annuation other wise beyond the said date of birth is absolutely illegal and contrary to record.

I further beg to state that since 1977, I have been continuously pursuing the matter by way of making representation after representations but due to some unknown ~~xxxxx~~ reasons, I could not work any response from the authorities. Except a mere assurance, nothing has been done till to date. Now if no immediate necessary action is taken by the authorities, I would sustain irreparable loss and injury and my valuable rights including the right to work and livelihood would seriously

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Alfred
Jellyman

- 3 -

be jeopardised. On the other hand, the authorities ~~right~~ ought to have disposed of my representation and taken a reasonable decision intimating me the same in view of the legal responsibility and duty being last on them. The authorities do not have any jurisdiction either not to decide the matter nor to fix the age of superannuation before disposing of those representations.

It is therefore, prayed that, your Honour may be pleased to consider my representation and hear me in person and dispose of my representation in accordance with law and thereafter direct the authorities to correct the date of birth and fix the age of superannuation on the basis of actual date of birth and allow me to continue my service till my actual age of superannuation as per my actual date of birth i.e. 16-2-48 and/or pass any other or further order or orders as your Honour may deem fit and proper.

And for this act of kindness, I shall ever pray.

Yours faithfully,

Sachindra Kumar Das,
7-10-95.

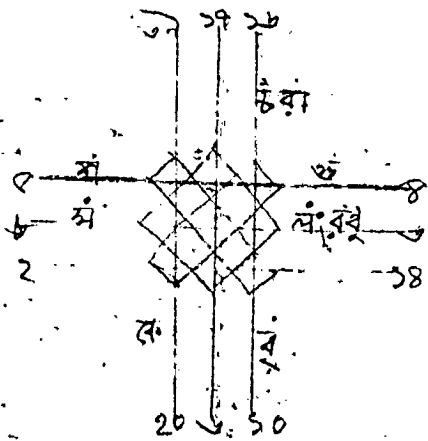
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*Attested by
Sachindra Kumar Das*

ANNEXURE - XI,

[illegible]

ਅਭਿਵਿਭਾਗ



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 नोड ररेव स्वतंत्र अशुभार्थक प्रिया राश नानि केहर नाडिद वार

কল্যাণ

कर्म माध्या माध्या
 १० १७ १८
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 १० मध्या १८

१। अग्निनीलधमः १७। एतच्छान्दस्यः २७। विष्णु
नधमः २८। श्रुतिप्रधानधमः ३०। विष्णु
नधमः ३१। १०। अथानन्दस्य उद्देशकस्य सर्व
प्रकारः ३३ कर्मादि वृत्तलीय

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बर्ष १९५०	२	३०	३७	२०	२५	४८	७७
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क. कु. १००	म	म	म	म	म	म	म
उ. कु. १००	क	क	म	म	क	म	म
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* চিহ্নিত ১। ১০। ১৬। ২৫। ২৮। ৩৪। ৩৫। ৩৭। ৪৬। ৫২। ৬১। ৬৪। ৭০
৭২। অথবা বিশাল-দ্বিশাল ধর্ম. অর্থনৈতিক লোক. কাম্বা বাধা এবং
উপকরণ প্রচলিত নীতিগত প্রশাসন-অভিকার গ্রহণের কারণে বর্তমান অবস্থা

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attested by
K. P. Pradhan
Advocate
27-2-96

ANNEXURE-XII

Date-20-12-95.

To

The General Manager,

N.F. Railway, Maligaon, Assam

Sub :- Prayer for correction of date of
birth.

Sir,

With regard to above mentioned subject matter, the petitioner begs to state that at present I am working as Master craftsman.

I was born on 16-2-48 and at the time of regularisation of my service, I submitted relevant documents including school certificates in support of my date of birth, age and qualification etc and the authorities had recorded my date of birth as 16-2-48 in service book on the basis of the said school certificate and I was all along made assured that the date of birth was properly recorded as per the school certificate and up to 1977 the authorities did never communicate anything regarding such anomalies.

It was only on 1-4-77, the authorities had for the first time, informed me that my date of birth was 16-2-38 and not 16-2-48 and as per the said of birth, fixed my age of superannuation on 29-2-96 which had compelled me to go on early retirement 10 years. However, the authorities asked me and all other persons to submit objection against any such anomalies of the said Gradation list.

contd...p/2

Attested by
M. S. Mondal

Annexure XII

A Immediately thereafter I filed a representation before the authorities contending that I was born on 16-2-48 and not on 16-2-38 and at the time of regularisation of my service, I submitted school certificate as directed by the appointing authority and my date of birth was accordingly recorded in the service book as 16-2-48. Moreover in the application form also, I mentioned to be my exact date of birth and prayed for correction of the same. I further contended that at subsequent stage of also, I was asked to submit the school certificate which I submitted before the authorities for taking necessary action to the matter.

But the said representation was kept pending and nothing was informed to me regarding the said representation. In that regard, I submitted several reminders to all the concerned authorities in charding your Honour and except a mere verbal assurance, nothing was done by the authorities. Now because of such inaction, I will have to go on 10 years early retirement which the authorities had fixed in an illegal and arbitrary manner frustrating my livelihood and valuable rights since I have filed representation challenging the action of the authorities, my representation ought to have been disposed of by them and they ought to have passed a reasoned order. On the other hand, the authorities have no jurisdiction to fix my seniority and/or age of my superannuation without disposing of my representation. and if no immediate action is taken by your honour I will sustain immense loss and injuries and my livelihood will be seriously affected.

contd...p/3

*Attested by
Muzumdar*

Annexure XII

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It is therefore prayed that your Honour may be pleased to consider my representation and hear me in person and dispose of my representation in accordance with law and thereafter direct the authorities to correct the said incorrect date of birth and allow me to continue my service till my actual age of superannuation as per my actual date of birth i.e. 16-2-48 and/or pass any other order or orders as Your Honour may deem fit and proper.

And for this act of kindness, I shall ever pray.

Yours Faithfully,
Sri Sachindra Kumar Das

26-12-95

Atul Singh
Muzumdar