

(Reserved on 05.01.2018)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No. 330/00641/2009

This the 10th day of January, 2018

HON'BLE DR. MURTAZA ALI, MEMBER (J)
HON'BLE MR. GOKUL CHANDRA PATI, MEMBER (A)

Awdhesh Prasad Dwivedi, son of Late Ram Raj Dwivedi, aged about 58 years, resident of village and P.O Belakhurd, District Gorakhpur.

.....Applicant
By Advocate: Shri B. Tiwari

Versus

1. The Union of India through its Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Pravar Adhishak, Dak Ghar, Gorakhpur Mandal, 273001, Distt. Gorakhpur Head Post Office, Gorakhpur.
3. Up Dak Pal, Bansgaon, District - Gorakhpur.
4. Up Mandaliya Nirikshak, Dak Ghar, Kauri Ram, Gorakhpur.

.....Respondents

By Advocate : Sri S. Srivastava

O R D E R
DELIVERED BY:-
HON'BLE MR. GOKUL CHANDRA PATI, (MEMBER-A)

By way of the instant original application, the applicant has prayed for following main reliefs:-

"(a)to issue an order or direction to respondents to consider the case of the applicant for correction of his date of birth in view of the certificate of Purva Madhyama Examination, 1967.

(b)to issue an order or direction to the respondent to permit the applicant to continue his service as per his correct date of birth i.e. 1.7.1950.

(c).to issue an order or direction to the respondent No. 2 to decide the representation / applications dated 20.12.2007, 14.07.2008 and 3, 12, 2008 (Annexure No. 3 to this application)"

2. The facts of the case, in brief, are that the applicant was appointed as GDS (Dakpal), Branch Post Office, Belakhurd w.e.f. 07.01.1980. It is stated in the O.A that the applicant's correct date of birth is 01.07.1950 but in service record, the date of birth has wrongly been mentioned as 01.07.1944. This came to the knowledge of the applicant in December 2007 after which he made several applications with the photocopies of Purva Madhyama certificate and Pariwar Register, but no action was taken by the respondents. Finally, the applicant retired on 30.06.2009 after completion of 65 years taking his date of birth as 01.07.1944. Photocopy of Purva Madhyama certificate from Sampoorna Nand Sanskrit University is enclosed by the applicant at Annexure A-2 to the O.A. Photocopies of representations dated 30.12.2007, 14.07.2008 and 3.12.2008 are at Annexure A-3 to the O.A).

3. In short, the grievance of the applicant is to correct the date of birth from 01.07.1944 to 01.07.1950 and has challenged the order dated 04.04.2009 of his retirement w.e.f. 30.06.2009 (Annexure A-1).

4. The respondents have filed counter affidavit (in short C.A) where the contentions of the applicant in the O.A have contradicted. It is stated that the vacancies for appointment of Branch Post Master was notified vide letter dated 06.12.1979 fixing last date to be 06.12.1979. Seven candidates had applied from the open market. The applicant, who was then GDS, Branch Post Office, Belakhurd also submitted an application enclosing the high school certificate and mark sheet in his own handwriting. He had passed High School examination in the year 1962 and his date of birth is 01.07.1944 as per the certificate. After completion of appointment formalities, the applicant was appointed on the post of Branch Post Master, Belakhurd vide letter dated 24.12.1979 and he was retired on 30.06.2009 after completion of date of superannuation.

5. The applicant filed Rejoinder Affidavit and subsequently Suppl. Counter Affidavit was also filed.

6. Subsequently, the applicant filed a Suppl. Affidavit dated 03.10.2012 where it was stated that name of father of the applicant is Ramraj Dwivedi and not Mahaveer Prasad Dwivedi and therefore, disowned the documents where father's name was mentioned as Mahaveer Prasad Dwivedi.

7. The matter was heard at length. Learned counsel for the applicant emphasized the point that the copy of matriculation certificate enclosed by the respondents at Annexure CA-1 of the C.A showing date of birth to be 01.07.1944 does not pertain to the applicant since the name of the father of the applicant has been shown as Mahaveer Prasad Dwivedi. He argued that the name of the father of the applicant is Ramraj Dwivedi. Therefore, the certificate based on which the applicant's date of birth has been recorded by the respondents does not pertain to the applicant. He referred to the copy of the certificate of the applicant enclosed at Annexure A-2 of the O.A where that date of birth of the applicant with father's name of Ramraj Dwivedi has been shown to be 01.07.1950. Learned counsel submits that

this certificate is genuine whereas the certificate relied upon by the respondents was not genuine. Learned counsel for the respondents submitted that the contentions of the applicant in the O.A are not correct. In this regard, he produced the original file No. H/141/ED relating to the applicant which was with him in view of the order dated 17.05.2010 of this Tribunal in this O.A.

8. Since the main issue in this case is whether the date of birth of the applicant is 01.07.1944 as recorded in the service record with the Department of Post, the original file pertaining to the applicant's service would be very much relevant. We have seen the particulars of the appointment of the applicant in Belakhurd Branch Post Office in the original file No. H/141/ED produced by the respondent's counsel, which has been signed by the applicant on 07.01.1980. In this document, the date of birth is clearly mentioned as 01.07.1944 with the name of the applicant's father as Mahaveer Prasad Dwivedi of village Belakhurd. It is further seen from original file that the appointment order dated 29.12.1979 to the applicant states the following: -

"INDIAN POSTS AND TELEGRAPHS DEPARTMENT
OFFICE OF THE SR. SUPDT. OF POST OFFICES, GORAKHPUR DIVISION:GR Memo No. H. 141/ED dated at Gorakhpur, the 29th Dec'79

Shri Awdhesh Prasad Divedi son of Shri Mahabir Prasad Divedi resident of village Bela Khurd is hereby appointed provisionally as E.D.B.P.M/ Bela Khurd Branch Post Office/ in account with Bansgaon under Gorakhpur Head Post Office with immediate effect. He shall be paid such allowances as admissible from time to time.

.....

Sr. Supdt. Of Post Offices
Gorakhpur Division"

9. The appointment letter clearly mentions the name of father of the applicant as Shri Mahabir Prasad Divedi and the applicant did not object the same at the time of his appointment.

10. In view of the above, the contentions of the applicant about authenticity of the High School Certificate, where the date of birth of the applicant has been indicated to be 01.07.1944 on the ground that the name of the father has been wrongly mentioned as Mahabir Prasad Divedi is not acceptable since the same name was mentioned to be the name of his father in his appointment letter dated 29.12.1979, as mentioned above. Moreover, after working in the department from January 1980 he was not aware about his date of birth as per service record till December 2007, as mentioned in para 4.7 of the O.A. But at the time of appointment, he had submitted the documents showing the date of birth to be 01.07.1944. Hence, the O.A has no merit and is liable to be dismissed.

11. Accordingly, the O.A is dismissed. No orders as to costs.

(GOKUL CHANDRA PATI)
MEMBER-A

(DR. MURTAZA ALI)
MEMBER-J

Anand...

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