

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

ORIGINAL APPLICATION NO. 060/00214/2016

Chandigarh, this the 30th day of May, 2018

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

...

Mukkan s/o Sh. Karpan, working as Daily Wager (Belder), o/o SDE Road Sub Division No.4, EE R-2, Municipal Corporation, Sector-26, Chandigarh Group-D, age 49 years.

....APPLICANT

(Argued by: Shri Rohit Seth, Advocate)

VERSUS

1. Union Territory Chandigarh through its Financial Secretary-cum-Secretary Engineering, U.T Civil Secretariat, Sector-9, Chandigarh.
2. Chief Engineer & Secretary Engineer, Chandigarh Administration, Sector-9, Chandigarh.
3. Superintending Engineer, Construction Circle-II, Engineer Department, Union Territory, Chandigarh, U.T Civil Secretariat, Sector-9, Chandigarh.
4. Executive Engineer, C.P Division No.2 Roads, Engineering Department, U.T Civil Secretariat, Sector-9, Chandigarh.
5. Sub Divisional Engineer, Roads Sub Division No.4, Municipal Corporation, Sector 26, Chandigarh.

....RESPONDENTS

(By Advocate: Shri Gagan Deep Singh Chhina, for respondents 1-4
Shri Arvind Moudgil, for respondent no. 5)

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J)

By means of present Original Application (O.A.), the applicant has challenged correctness of impugned order dated 13.5.2015 (Annexure A-1), whereby his representation (Annexure A-6) for correction of his date of birth indicated in seniority list issued on 20.05.1996 has been rejected by the respondents.

2. After exchange of pleadings, the matter came up for hearing.

3. Learned counsel appearing on behalf of applicant vehemently argued that the impugned view taken by the respondents vide (Annexure A-1), rejecting his claim for change of date of birth from 03.02.1960 to 15.05.1966 is totally illegal, arbitrary as the respondents cannot be allowed to raise a plea that the applicant has not submitted any representation for correctness of his date of birth within 5 years from the date of joining service, therefore, the impugned order be quashed and set aside. He submitted that the applicant initially joined on daily wage basis on 01.12.1985 in Chandigarh Administration and his services were transferred to Municipal Corporation, Chandigarh on 21.05.1996. He further submitted that the applicant at the time of joining the service submitted his school leaving certificate in which his date birth is indicated as 15.05.1966, but it was inadvertently recorded as 03.02.1960 in the service record, therefore, the same is to be corrected.

4. Per contra, learned counsel appearing on behalf of Municipal Corporation, Chandigarh strongly opposed the prayer of the applicant for correction of his date of birth and submitted that the applicant is challenging the seniority list which was notified on 20.5.1996. It was well within the knowledge of the applicant that his date of birth was wrongly recorded in the seniority list as he had never raised any objection in that regard. The applicant has himself admitted this fact in his representation (Annexure A-6) at page 29 of the paper-book, therefore, the O.A. deserves dismissal being hopelessly time barred. To buttress his plea, he has also

placed reliance on the two judgments of Hon'ble Apex Court in the case of **State of M.P. and Ors. Vs. Premlal Shrivastava** reported in 2011 (9) SC 664 and in the case of **State of Gujarat & Ors. Vs. Vali Mohamed Dosabhai Sindhi** reported in 2006 (3) SCT 607.

5. We have heard the learned counsel for the parties, perused the pleadings available on record and given our thoughtful consideration to the entire matter.

6. We find merit in the submissions made at hands of respondents that this O.A. is without merit and deserves dismissal on ground of delay and laches. On perusal of representation (Annexure A-6), for change of his date of birth, it is admitted by the applicant that his date of birth has wrongly indicated in the seniority list, which was notified on 20.5.1996. Thus, it goes to establish that it was well within the knowledge of the applicant that his date of birth has been wrongly recorded in seniority list and he kept mum and filed this O.A. only after a delay of more than 12 years for correction of his date of birth. Thus, the O.A. is barred by limitation. There is another reason for dismissal of the O.A. because the applicant could have made request for change of his date of birth within 5 years from the date of entry into service. Therefore, the O.A. is dismissed being time barred with no order as to costs. M.A. NO. 60/615/2017 also stands disposed of.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 30.05.2018

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