

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BENGALURU**

ORIGINAL APPLICATION NO.170/000066/2017

DATED THIS THE 07TH DAY OF MARCH, 2019

**HON'BLE DR.K.B.SURESH
HON'BLE SHRI C.V. SANKAR**

**...MEMBER(J)
...MEMBER(A)**

Smt Mangamma,
Aged about 57 years,
W/o Krishnamurthy,
Working as Ex. MTS,
RMS Q Division, Bangalore
Residing at H-475, VSDC Layout,
Hosakerehalli Cross,
Bangalore-560 070.

..Applicant.

(By Advocate Shri P. Kamalesan)

Vs.

1. Union of India
Rep. by Director General of Post,
Department of Posts,
Dak Bhavan, New Delhi – 110 001.
2. Chief Post Master General,
Karnataka Circle,
Bangalore-560 001.
3. Post Master General ,
S.K. Region,
Bangalore-560 001.
4. Superintendent of Post Offices,
RMS 'Q ' Division,
Bangalore-560 026.
5. Head Record Officer,
RMS 'Q' Division,
Bangalore-560 026.

...Respondents

(By Standing Counsel Shri K. Gajendra Vasu for Respondents)

ORDER (ORAL)

HON'BLE DR.K.B.SURESH ...MEMBER(J)

Heard. The matter relates to Date of Birth of the applicant. It seems that twin notations are present in the records that one showing the year of birth as 1953 and another as 1960. Apparently the Hon'ble Apex Court in Jiwan Kishore vs. Delhi Transport Corporation and an other reported in 1980 (Supp) SCC 678 had resolved this issue by formulating a method. We quote from the Judgment.

“Krishna Iyer, J – The sole question raised in this appeal is as to the age of the employee-appellant. There was a discrepancy, which was rather wide since the year of birth, according to one record was 1917 and according to another record 1927. In view of this considerable discrepancy, the employer, the Delhi Transport Corporation, appointed its Medical Board to fix the age of the appellant and according to the assessment of the age by the Medical Board, it is seen that he was 51 on June 13, 1975. We see no reason to ignore this scientific fixation of age when we have records which are flagrantly conflicting. Therefore, we fix the age of the appellant in partial allowance of his appeal at 51 on June 13, 1975. This means he will retire at the age of 58 on June 12, 1982. We are not impressed with the suggestion that we could prefix the age at January 1 of the year of retirement as per relevant regulation. We are not going into its vires in this case as both sides agree that if the court fixes the age as per the Medical Board's determination, they will accept and abide by it. On this footing we dispose of the appeal in partial allowance and set aside the order of retirement and further direct the appellant be continued in service with all the consequential benefits as a regular employee until June 12, 1982.

2. The arrears of salary etc., if any, will be paid to the appellant by the respondents within three months from today.

3. The respondent will pay the appellant costs in a sum of Rs.1000 and counsel Dr. Chitale states that the same be made over to the Legal Aid society (Supreme Court).”

2. Therefore, there will be a direction to the Additional Director, CGHS, Bangalore to constitute a Three Member Medical Board within the next one month from the date of receipt of a copy of this order and examine the applicant and fix her approximate age and date of birth. This fixation will be binding on both the applicant and respondents in accordance with the said findings. The respondents to pass any consequential order if it is called for, within the next 2 months.

3. OA disposed of as above. No costs.

(C.V. SANKAR)
MEMBER(A)

(DR.K.B.SURESH)
MEMBER(J)

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Annexures referred to by the Applicant in OA No.170/00301/2018

1. Annexure A1 : Copy of Superintendent RMS 'Q' Division, Bangalore letter dated 5.6.1982.
2. Annexure A2 : Copy of Superintendent RMS 'Q' Division, Bangalore letter dated 30.1.1999.
3. Annexure A3 : Copy of Affidavit letter dated 1.6.2005.
4. Annexure A4 : Copy of Superintendent RMS 'Q' Division, Bangalore letter to Victoria Hospital dated Nil.
5. Annexure A5 : Copy of Superintendent RMS 'Q' Division, Bangalore letter dated Nil to Medical Officer, Bangalore.
6. Annexure A6 : Copy of HRO RMS 'Q' Division, Bangalore letter dated 7.2.2013.
7. Annexure A7 : Copy of Minutes of Review DPC dated 17.12.2013 vide DRM RMS 'Q' Division, Bangalore letter dated 17.12.2013.
8. Annexure A8 : Copy of Superintendent RMS 'Q' Division, Bangalore letter dated 10.1.14.
9. Annexure A9 : Copy of representation dated 20.1.2014.
10. Annexure A10 : Copy of Superintendent RMS 'Q' Division, Bangalore letter dated 30.9.2014.
11. Annexure A11 : Copy of Hon'ble CAT order dated 22.8.2013. in OA.No.698/2012.
12. Annexure A12 : Copy of Hon'ble CAT order dated 21.1.2014. in RA.No.47/2013 in OA.698/2012.
13. Annexure A13 : Copy of Hon'ble CAT order dated 30.5.2014. in CP.No.1/2014 in OA.No.698/2012.
14. Annexure A14 : Copy of Hon'ble CAT order dated 19.3.2015. in OA.No.1383/2014.
15. Annexure A15 : Copy of Hon'ble High Court of Karnataka order dated 26.4.2016. in WP.No.31087/2015.
16. Annexure 16: Copy of Hon'ble CAT order dated 5.8.2016. in OA.No.1383/2014.
17. Annexure A17 : Copy of Hon'ble Apex Court order dated 1.12.8.2011. in Civil Appeal .No.6964/2004.
18. Annexure A18 : Copy of Thasildar Certificate dated 2.2.99.

Annexures referred to by the respondents in the Reply

1. Annexure R1: Copy of Superintendent, RMS 'Q' Division, Bangalore letter dated 05.6.1982.
2. AnnexureR2 :Copy of Department of Posts letter No.65-24/88-SPB-I dated 17.5.1989.
3. AnnexureR3 :Copy of Department of Posts letter No.45-14/92-SPB-I dated 28.4.1997.
4. AnnexureR4 :Copy of Directorate letter No.45-37/91-SPB-I dated 26.9.1991.
5. AnnexureR5 :Copy of Postal Directorate letter No.66-52/92-SPB-I dated 01.11.1995.
6. AnnexureR6 :Copy of corrigendum dated 08.11.1995.
7. AnnexureR7 :Copy of the OA filed by the applicant.
8. Annexure R8 Copy of the DPC meeting held on 29.12.2012.
9. AnnexureR9 :Copy of Hospital Certificate issued in the year 1999.
10. AnnexureR10 :Copy of Review DPC weightage for the declaration and Health certificate.
11. Annexure R11 :Copy of the Statement of the applicant in the representation dated 5.12.2012.
12. Annexure R12 :Copy of letter dated 1.10.2014 of the applicant.
13. Annexure R13 :Copy of the letter dated 28.10.2014 of Superintendent RMS 'Q' Division, Bangalore.
14. Annexure R14 :Copy of acknowledgement.
15. Annexure R15 :Copy of Affidavit dated 04.07.1989.
16. Annexure R16 :Copy of Seniority list of Casual Labourers dt.31.10.2012.

Annexures referred in the Written Note filed by the applicant.

1. Annexure WA 1 : Copy of Judgment in Civil Appeal No.2736/1979 dated 11.4.1980.

Annexures referred in the Written Note filed by the respondents

1. Annexure WA 1 : Copy of Statement and declaration by the applicant.
2. Annexure WA 2 : Copy of Health Certificate.
