

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

Pronounced on : 05.02.2019

Reserved on : 29.01.2019

OA No. 060/01305/2017

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

Shilla Devi, aged 57 years, daughter of Shri Tek Chand, resident of House No. 113, New Colony, Khuda Lahora, Near PGI, Chandigarh (Group C).

.....Applicant

BY ADVOCATE: **Sh. Ramesh Sharma**

Versus

1. The Union of India through its Secretary, Department of Health & Family Welfare, Government of India, 'A' Wing, Nirman Bhawan, New Delhi.
2. The Post Graduate Institute of Medical Education & Research through its Registrar, Post Graduate Institute of Medical Education & Research Centre, Sector 12 (PGIMER), Chandigarh.
3. The Director, Post Graduate Institute of Medical Education & Research (PGIMER), Sector 12, Chandigarh.
4. The Senior Administrative Officer, Post Graduate Institute of Medical Education & Research Centre, Sector 12 (PGIMER), Chandigarh.

.....Respondents

BY ADVOCATE : **Sh. Arvind Moudgil for respdt. No. 1
Ms. Madhu Dayal for respdts. No.2-4**

ORDER

MRS. P. GOPINATH, MEMBER(A):-

1. Applicant started service on 26.04.1983 as a Family Welfare Worker. Applicant contends that in the matriculation certificate submitted at the time of appointment, the age of the applicant was wrongly indicated. In the year 1983, the applicant submitted an application

alongwith an affidavit informing that her date of birth was 03.08.1960 and not 03.08.1957 as mentioned in the matriculation certificate. Applicant submits that on the basis of the said affidavit, her date of birth was entered as 03.08.1960 in the service book. Applicant does not maintain a copy of the application so made or the affidavit. She places on record a photocopy of the first page of the service book wherein she submits that the date of birth is recorded as 03.08.1960. On a perusal thereof, Bench notes that this first page of service book shows that the date of birth 03.08.1960 has been encircled and above that a noting has been made as follows:-

“As per DPG.I Record DOB -> 3.8.57”.

Applicant reads this as a correction made in her date of birth as per her application submitted to the respondents. That the date of birth was not as presumed by the applicant, came to her notice when in June, 2017, she received a letter that she would be retiring on 31.08.2017. On receipt of the above letter, applicant submitted a representation to the HOD that her actual date of birth was 03.08.1960 and she should be continued in service till 31.08.2020. The representation submitted was returned by the respondents with the remarks that the correction in the date of birth should be accompanied by relevant supporting documents.

2. The applicant visited the Registrar of Births and Deaths where she was given two documents placed on record as Annexures A-6 and A-7. Annexure A-6 is a document which states that the records of 1957, 1958 and 1959 were checked and the applicant's birth was not registered in the said records. Annexure A-7 is also a document wherein

it is recorded that the applicant's birth was not registered in the years 1960 and 1961.

3. The representation of the applicant for change of date of birth was rejected by passing Annexure A-13 speaking order and the applicant stood retired on 31.08.2017. Applicant filed OA No. 60/1107/2017 before this Bench which was withdrawn with the liberty to enable the applicant to file a detailed representation for the redressal of her grievance.

4. In support of her contention for change of date of birth, the applicant cited Apex Court judgement titled **Sarjoo Prasad Vs. General Manager & Anr. 1981 AIR SC 481** wherein applicant's case was that the date of birth recorded by employer was not as entered in the High School Certificate unlike the applicant in this OA whose case is that her date of birth is wrongly recorded in her matric certificate. Applicant also cites **Genda Lal Vs. UOI, 2007(15) SCC 553** in support of her arguments wherein error was committed by respondents wherein in this OA, applicant is contesting date of birth as recorded in her matric certificate.. The prayer of the applicant is for setting aside the superannuation order dated 30.08.2017 and direct the respondents to continue in service upto 31.08.2020.

5. It is necessary initially to peruse the reply to the applicant's representation submitted as a consequence of OA No. 1107/2017 filed by her. In the reply, the respondents cite the provisions of GFR 79 clause (I) which reads as follows:-

“Every person newly appointed to a service or a post under Government shall at the time of the appointment declare the date of birth by the Christian era with as far as possible confirmatory documentary evidence such as a Matriculation

Certificate, Municipal Birth Certificate and so on. If the exact date is not known and approximate date shall be given.”

The reply of the respondents also cites chapter 58 of Swamy's Establishment and Administration Manual dealing with the subject of the date of birth wherein it is stated that there is no provision to change the date of birth at the time of retirement. Requests from Government servants to alter the date of birth should not normally be entertained after their service book record is prepared and in any event not later than completion of probation period or declaration of quasi-permanency whichever is earlier. The date of birth of a Government servant may not be altered except if the head of department or Administrator is satisfied that a bonafide clerical mistake has been made and the same is required to be rectified. And the efforts to effect the change should be settled within the period stated above.

6. The applicant, at the time of joining, had submitted an attestation form duly filled in by her on 20.05.1983 under her own signature wherein she had herself mentioned her date of birth as 03.08.1957. She submits that she has made no efforts to correct her date of birth in the matriculation certificate. The respondent, in the affidavit placed on record, submit that no affidavit of the applicant to the effect that her actual date of birth was 03.08.1960 has been submitted nor is the same available on record. The only documentary proof the respondents have is the matriculation certificate submitted by the applicant herself at the time of appointment, the attestation forms and the service book whose entries are corroborated with the other two documents cited and produced at the time of appointment. Since the

date of birth in the matriculation certificate is stated as 03.08.1957, the same is the date of birth on record in the office.

7. The respondents also bring to notice General Financial Rules (GFR) No. 79 clause (I) wherein every newly appointed person in the Government shall at the time of appointment declare the date of birth by the Christian era with supportive documentary evidence such as matriculation certificate, Municipal Birth certificate and so on. Applicant had submitted the matriculation certificate and the same was used to verify the entry made in first page of the service book.

8. The respondent argues that the applicant had filled the first page of the service book with the date of birth 03.08.1960 and the correction that she avers in her original application, is the correction made by the respondents in the date of birth as 03.08.1957 as per documentary proof of matric certificate submitted by the applicant herself. A matriculation certificate has been issued by the Board of School Education Haryana and the applicant has no argument that the Board of School Education does not make corrections in the date of birth in the matriculation certificate issued by them if an application is made to that effect. The applicant has submitted a duly signed attestation form signed on 20.05.1983, placed on record as Annexure R-2/1, wherein under the column date of birth, she mentions the date as 03.08.1957. Hence, the applicant's statement about her date of birth is contradictory, as per attestation form submitted at the time of appointment, and as averred in the OA.

9. We are prone to agree with the argument that the non-availability of record of birth certificate issued by the Additional District Registrar (Births and Deaths) Jhajjar does not provide any support or proof in favour of the applicant's plea that she was born on 03.08.1960 and not on 03.08.1957. The said document only states that there are no official records pertaining to the applicant or her date of birth in the years 1957, 1958 and 1959 (Annexure A-6) and 1960 & 1961 (Annexure A-7). The said document does not provide any evidence of the applicant's prayer for date of birth.

10. The normal practice in Government is that when changes are to be made in records such as service book, the said data proposed to be changed is encircled and the new data entered along with remarks indicating that the change was being made and the details of the document based on which the change was effected. We find that no such remarks are noted in the service book for recording date of birth as 03.08.1960. On the other hand, we note that the date of birth of 03.08.1960 has been encircled and a remark is recorded against the said date of birth in the service book (Annexure A-3) as "as per DPG I record the date of birth is 03.08.1957" in Annexure A-3, placed by the applicant.

11. From the above, it is apparent that the matriculation certificate submitted by the applicant has been taken as proof of date of birth record. The respondents also submit in Annexure A-13, reply given to the applicant's representation wherein it is stated that the date of birth has been corrected in the service record from 03.08.1960 recorded in the applicant's own handwriting to 03.08.1957 on the basis of the

matriculation certificate submitted by her at the time of appointment. The respondents submit that there is no tampering of service record but there is a bonafide correction made by the office as per documentary proof of date of birth submitted by the applicant at the time of her appointment.

12. We note that the applicant has also in the attestation form submitted in the year 1983, recorded her date of birth in column 7(a) as 03.08.1957. In column 7(b) she has recorded her age as 25 years and in column 7(c) the age at matriculation is 16 years. Further in column 10 of the same form, applicant indicates date of passing matriculation as March, 1974 i.e. at the age of 16 years if date of birth is taken as 03.08.1957. In case the applicant's date of birth was 03.08.1960, then she would be of 13 years of age at the time of passing matriculation which would not come to the aid of the applicant or support her claim, as she would have been under-aged to appear in matriculation exam.

13. For the foregoing detailed discussion, we find this OA to be devoid of merit and dismiss the same. There shall be no order as to costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated:
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