

*Reserved*

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**  
**JABALPUR**

**Original Application No.200/00041/2019**

Jabalpur, this Tuesday, the 01<sup>st</sup> day of October, 2019

**HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER**  
**HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Kripa Ram Joshi  
S/o Late Raphunandan Joshi  
DOB 09.12.1954  
Working as GDS BPM Dirouli Park  
Datia R/o Dirouli Park  
District Datia 475682 (M.P.)

**-Applicant**

(By Advocate –**Shri Vijay Tripathi**)

**V e r s u s**

1. Union of India,  
Through its Secretary  
Ministry of Communication & IT  
Department of Posts Dak Bhawan  
Sansad Marg New Delhi 110001

2. Chief Post Master General  
Madhya Pradesh Circle  
Hoshangabad Road, Bhopal  
District Bhopal 462012 (M.P.)

3. Sr. Superintendent of Post Offices  
Gwalior Division  
Gwalior 474006 (M.P.)

**- Respondents**

(By Advocate –**Shri S.P. Singh**)

*(Date of reserving the matter:23.08.2019)*

## **ORDER**

### **By Navin Tandon, AM:-**

The applicant is aggrieved that he is being forced to retire 10 months earlier from his scheduled date of superannuation.

2. The applicant has made the following submissions:-

2.1 He was appointed as Extra Departmental Sub Post Master (EDSPM) vide order dated 22.09.1981 (Annexure A/2).

2.2 He passed 10<sup>th</sup> Class Examination from Government High School Sevda Datia in the year 1972 (Annexure A/3). He appeared in Higher Secondary Examination in the year 1975 but could not clear the exam (Annexure A/4).

2.3 The date of birth mentioned in the 1972 mark sheet (Annexure A/3) and 1975 mark sheet (Annexure A/4) as 09.12.1954.

2.4 The applicant and the respondents have exchanged some communications on 15.11.2018

(Annexure A/6), 11.12.2018 (Annexure A/7) regarding the date of birth.

**2.5** Accordingly, the respondents have communicated to him vide order dated 04.12.2018 (Annexure A/1) to say that on the basis of his date of birth being 09.02.1954, he is to be superannuated on 08.02.2019 afternoon. He submitted his representation again on 13.12.2018 (Annexure A/9). But the grievance has not been redressed at the department level.

**2.6** He has also submitted that department had returned his Higher Secondary School Certificate Examination, 1975 original mark sheet vide letter dated 15.09.1986 (Annexure A/10.)

**2.7** The annual inspection report 2016 (Annexure A/5) shows his date of birth as 09.12.1954.

**3.** The applicant has prayed for the following relief:-

*“8.1 Summon the entire relevant record from the possession of Respondents for its kindly perusal.*

*8.2 Upon holding that DOB of applicant is 09.12.1954. Set aside the order/communication dated 04.12.2018 Annexure A/1.*

*8.3 Direct the respondents to permit the applicant to complete his normal tenure up to 09.12.2019 as SGDS BPM.*

*8.4 Any other order/orders, direction/directions may also be passed.*

*8.5 Award cost of the litigation to the applicant.”*

4. The respondents have filed their reply wherein the following has been submitted:-

4.1 The applicant was appointed as EDSPM in the year 1981.

4.2 His date of birth was recorded as 09.02.1954 which is derived from the mark sheet submitted by the applicant at the time of appointment (Annexure R/1).

4.3 The extract of service book (Annexure R/2) also shows that his date of birth is 09.02.1954. The gradation list as on 01.07.1999 (Annexure R/3) shows the date of birth as 09.02.1954. The gradation

list of 01.07.1999 and dated 18.05.2018 (Annexure R/4) shows his date of birth as 09.02.1954.

**4.4** The date of birth 09.02.1954 of the applicant has been repeated in various official records.

**4.5** As per instructions (Annexure R/6) dated 23.04.2001 clearly mentions that the date of birth once taken on record at the time of appointment should be the one for all purposes.

**5.** The applicant has filed their rejoinder wherein he has made the following submissions;-

**5.1** The mark sheet (Annexure R/1) has never been submitted by the applicant and he is not aware from where the respondents have obtained the same.

**5.2** The gradation list (Annexure R/3) has never been brought to the notice of the applicant.

**6.** The matter was heard for some time on 25.03.2019 wherein it was felt necessary for proper adjudication of the case, the following steps to be taken:-

*“(i) The applicant may file affidavit regarding the fact that the mark sheet attached with Annexure R/1*

*has never been submitted to the authority at the time of appointment. Also he had appeared in the Higher Secondary School Certificate Examination only once in 1975.*

*(ii) Respondents are directed to approach Board of Secondary Education Bhopal to obtain the response to their letter dated 02.02.2019 (Annexure A/5).*

*(iii) Board of Secondary Education is directed to render all possible help in furnishing the required information at (ii) above.”*

7. Accordingly the applicant has filed the affidavit dated 21.04.2019 to say that the mark sheet attached at Annexure R/1 has never been given to the authority at the time of his appointment.

7.1 The respondents have obtained the response from Board of Secondary Education Bhopal (for brevity “**Board**”) which is available as Annexure R/10 and Annexure R/11.

8. The case was heard on 02.08.2019 and oral order dictated. However, later we found that a material document attached with Annexure R/10 has not been explained during the course of hearing. Hence, the matter was listed for being spoken to.

**8.1** Learned counsel for applicant was also directed to file an affidavit to the effect that he had appeared in Higher Secondary School Certificate only once in 1975. Accordingly an affidavit has been filed.

**9.** Heard the learned counsel for both the parties and perused the pleadings and documents attached therein.

**10.** The basic dispute is about the attested mark sheet available in the records of the respondent-department wherein the date of birth has been shown as 09.02.1954 which shows that the Roll No as 204779 and the year has only been shown as 19 and all the four digits are not legible.

**11.** Board vide letter dated 04.07.2019 (Annexure R-10) have stated that the marks sheet sent by the Department which has Roll Number, Subjects, marks obtained is illegible/not clear and has not been issued by the Board, and cannot be certified.

**11.1** However, they have attached a marks sheet of Higher Secondary School Examination 1974 with Roll No.204779

with name Sri Kripa Ram Son of Raghunandan Joshi, which is the same as that of applicant. The date of birth in the marks sheet is 09.02.1954.

**12.** The mark sheet filed by the applicant (Annexure A/4) shows that Higher Secondary School Certificate Examination is of the year 1975. The date of birth is 09.12.1954. The roll no. appears to be 028496, but has overwriting.

**13.** Board in their letter dated 04.07.2019 (Annexure R/11), have mentioned that in their records, name of Shri Kriparam Son of Raghunandan Joshi has been recorded against Roll No.028490 (it appears that 028496 is over writing). The contents of the marks sheet sent by the respondents tally with the records of the Board. The marks sheet attached with the letter is of H.S.S.C. Exam 1975. It clearly shows the date of birth as 09.12.1954.

**14.** The learned counsel for the applicant submits that the said mark sheet remained with respondent-department for 5 years and it was returned only in 1986 (Annexure A/10).

We find that in the subject of the said letter dated 15.09.1986 (Annexure A/10), it is clearly written “हायर सेकेण्डरी स्कूल सर्टीफिकेट परीक्षा 1975 के मूल अंक सूची भेजने बावत।” (regarding sending of original marks sheet of HSSC Examination 1975) and original mark sheets have been enclosed.

15. Learned counsel for the applicant has also submits that he was always in the impression that his date of birth is the same as recorded in the higher secondary school examination which is 09.12.1954 and he has not applied for any change at the fag end of his career.

16. Learned counsel for the respondents has relied upon the order dated 28.09.2010 (Annexure R/9) passed by the Principal Bench of this Tribunal in O.A. No.3542/2009 *Dilasa Ram Sharma vs. Union of India and others* wherein reliance has been placed on the judgment passed by Hon’ble Supreme Court in *Punjab and Haryana High Court at Chandigarh vs. Megh Raj Garg & Anr.* [2010

(2) SCC (L&S) 221], and request for change of date of birth at fag end has been disallowed.

### **FINDINGS**

17. It is observed that in the gradation list filed by the respondents, while the date of birth is shown as 09.02.1954 whereas the date of appointment as 02.11.1982. It is the assertion of the applicant as well as respondents that the applicant was appointed in the year 1981. Therefore it is very clear that the date of appointment which is shown in the gradation list are in error. Similarly, the applicant has also filed the inspection report dated 20.12.2017 (Annexure A/5) where the date of birth is shown as 09.12.1954. Further he has filed gradation list dated 12.08.1992 (Annexure IA/1), where his date of birth is shown as 13.12.1960. It is evident that crucial dates in different documents are at variance to each other.

18. As far as the correct recording of date of birth is concerned, neither the office inspection report nor the

gradation list issued by the respondents can be taken as authentic. The date of birth recorded at the time of appointment is the only document which can only be relied upon for the correct recording of date of birth. However, the respondents have failed to provide the service book of the applicant.

**19.** The document at Annexure R/2 is not an extract of service book but a letter from Senior Superintendent of Posts, Gwalior to Sub Post Master.

**20.** Board in their letter dated 04.07.2019 (Annexure R/11) have confirmed the marks sheet which has been submitted by the applicant (Annexure A/4). This confirms that the applicant had appeared in the HSSC Exam 1975 and date of birth is 09.12.1954.

**21.** The crucial document is letter dated 15.09.1986 (Annexure A/10) wherein it is clearly stated by the respondents that the original marks sheet of HSSC Examination 1975 is being returned. The marksheet of the year 1975 correlates to date of birth as 09.12.1954.

**22.** Further, the attested marks sheet available in the records of the respondents have not been verified by the Board as per their letter dated 04.07.2019 (Annexure R/10).

**23.** From the above, we are of the considered view that the applicant had deposited his marks sheet of H.S.S.C. Exam 1975 with the department, which was returned on 15.09.1986. This marks sheet of HSSC Exam 1975 has been confirmed by the Board, which states that the date of birth as 09.12.1954. It is also clear that the request for change of date of birth has not been made at fag end of career.

**24.** The contents of the Board's letter dated 04.07.2019 (Annexure R/10) and its enclosure appear to be contradictory to each other. However, except for raising some initial doubts, nothing else can be deduced except that the marks sheet in the records of the respondents (Annexure R/1) has not been confirmed.

25. Since, it is not a case of getting the date of birth being asked to be changed at fag end of the career, the fact of the instant case are easily distinguishable from the *Dilasa Ram Sharma* (supra).

26. Accordingly, the Original Application is allowed. The impugned order dated 04.12.2018 (Annexure A/1) is quashed and set aside. Respondents are directed to treat the date of birth of the applicant as 09.12.1954 and permit him to complete his normal tenure up to 09.12.2019. No costs.

**(Ramesh Singh Thakur)**  
**Judicial Member**

**(Navin Tandon)**  
**Administrative Member**

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