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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 3083/2003

New Delhi, this the 10th day of November, 2004

Hon'ble Sh. Sarweshwar Jha, Member (A)

Jeet Ram
Senior P.E.T.
Govt. Boys Sr. Sec. School,
M.B.Road, Pushp Vihar, Sector-I,
New Delhi.

...Applicant

(Applicant in person)

V E R S U S

1. Deputy Director (South)
Directorate of Education
South District, Defence Colony
New Delhi.
2. Director of Education
Delhi Administration
Old Secretariat
Delhi.
3. D.D.O.
Govt. Boys Sr. Sec. School
M.B.Road, Pushp Vihar
Sector-1, New Delhi - 110 017.

...Respondents

(By Advocate Sh. George Paracken)

O R D E R

The applicant has impugned the order of the respondents dated 12-2-2001 whereby he has been retired w.e.f. 31-1-2001 by treating his date of birth as 1-2-1941, whereas he has claimed that his date of birth is 1-2-1944.

2. The facts of the matter briefly are that the applicant was initially appointed as Sr. P.E.T. at Jaihind Sr. Sec. School, Paharganj, New Delhi on 1-3-1969 ; his service book was prepared in the same year. However, the said school was taken over by the Government with all liabilities and assets on 14-5-1970. The applicant has assumed that the Directorate of Education must have counted his past service as rendered at Jaihind Sr. Sec. School from 1-3-69 to 14-5-70. With the said school having been taken over by the Directorate of Education, the applicant became a permanent employee of the Directorate and his duplicate service book was prepared, as claimed by him. He, however, objected to the wrong

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174

entry about the date of his birth made in this service book. While he has referred to the need to have the entries in the service book verified every 5 years, this was ^{allegedly} not done by the Department in his case. While he represented against his retirement vide order dated 12-2-2001, the same having not been replied to, he submitted a reminder ; again no reply was received. He followed it up with a legal notice. He did not receive reply to the legal notice also. This led to his filing an OA 3252/2002 and subsequently RA 34/2003 on 5-2-2003. He appears to have filed another OA 999/2003, which was dismissed as withdrawn on 24-11-2003 (Annexure-M). Then was filed this OA. He has reiterated the same facts as submitted earlier and referred to his first service book and the same carrying the genuine date of his birth. He has argued that the date of birth as claimed by him as 1-2-1944 is based on the certificate as issued by the CBSE in August 1962. The said certificate was submitted by him in original. This certificate was never returned to him and, according to him, it is in the custody of the respondents. He has also referred to the certificate issued by Deshbandhu College (Evening), Kalkaji, in which his date of birth has been shown as 1-2-44. He has all along presumed that his date of birth has been corrected on the basis of this certificate. Referring to the assurances given in this regard by the concerned authorities, he was in the hope that the necessary corrections in his date of birth would be carried out. The same has, however, not been done and hence this OA.

3. The respondents have, however, maintained that the entry of his date of birth as 1-2-41 in the service book is correctly made and which has been duly signed by the Head of the School and certified by Sh. Jeet Ram (the applicant) himself by putting his signature and thumb impression on it. According to them, the applicant has failed to produce any documentary evidence in support of his new date of birth and accordingly he has retired w.e.f. 31-1-2001. Additionally, the respondents have confirmed that the Principal of the school from which he has passed his higher secondary education has confirmed his date of birth as 1-2-41. This is also confirmed by the entry No.415/7 in the admission and withdrawal register of the school. Attested copy of the higher secondary certificate now enclosed with his application, according to the respondents, appears to be fake on the face of it. From closer

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perusal of the service book, it is also observed that the date of birth as 1-2-1941 has been signed and his thumb impression given on the same. Surprisingly he never protested against his date of birth as entered in the service book.

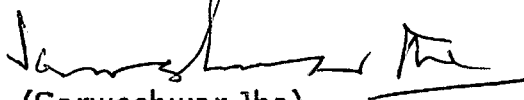
4. He has since been granted the retirement benefits. It is also noted that he had, according to the respondents, not submitted his pension papers to the Department whereas he has claimed that he has been wrongly retired from govt. service.

5. His qualifying service is 13 years and 17 days. The minimum qualifying service required for pension is 20 years. It has also been alleged by the respondents that the applicant has always been in litigation against the government and has been quite violent in his behaviour. They have submitted that earlier he had also not shown proper behaviour before the Tribunal while his CP No.98/1996 in CP438/1992 in TA 415/85 was being heard. Necessary reference in this regard has been made in para 9 of the order of the Tribunal in the said C.P. (Annexure R-3). On the question of counting of past service as claimed to have been rendered by the applicant, the respondents have submitted that he applied for the same for the first time on 10-10-2000, i.e., just 2 months and 10 days before his date of retirement. In any case, on the said date he applied for counting of only 75 days of past service for the purpose of grant of senior scale which had been granted on 11-2-2003. Accordingly, his allegation in this regard has been held to be incorrect by the respondents. They have also disputed the claim of the applicant that his original certificates were never returned to him as he has not given any proof to that effect. Certificate as is claimed to have been issued by the school from where he had his secondary education is also a provisional certificate. The respondents have found the certificate issued by Deshbandhu College (Evening) and as attested by the Principal, Govt. Higher Secondary School, Kidwai Nagar, New Delhi to be bogus. Arguing that the date of birth is verified with reference to the School Leaving Certificate as has been issued by the Govt. Boys Sr. Sec. School, Mehrauli, New Delhi where the applicant had studied. According to them, the version of the applicant claiming his date of birth as 1-2-1944 cannot be accepted and that his date of birth essentially remained unchanged as 1-2-1941.

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6. The applicant through his rejoinder to the reply of the respondents has reiterated the submissions made by him earlier and there is hardly anything new to submit on the subject. It is observed that the applicant has already had a few rounds of litigation earlier and that in compliance with the decisions of the Tribunal in the relevant OAs/CPs, necessary exercises have been undertaken by the respondents and who have found that the claim of the applicant is not correct. Finding the certificate, as produced by the applicant in support of his contention, as not genuine, it is also very difficult to entertain the prayer at this belated stage. It is not clear from these submissions as to why the applicant has sought his date of birth being taken as 1-2-44. While he has argued that he mentioned this subject to the authorities concerned and who gave him assurance from time to time to consider the matter relating to correction being made in his date of birth, he finally retired on superannuation on 31-1-2001. He does not seem to have made any specific effort at the initial stage of his service when his school was taken over by the Directorate of Education in the year 1970 itself. While no reference has been made to the relevant decisions of the Hon'ble Courts on the subject, it is a settled law that any change in the date of birth should be sought at the initial stage of the service and not at its fag end. Moreover, the documents which have been produced in support of his contention are not free from suspicion that these are not the genuine ones. He has also not been able to advance any proof that the original certificates as claimed to have been filed by him were never returned to him by the authorities concerned.

7. Under these circumstances, it is very difficult to proceed in the matter on the basis of typed copies of these certificates. Accordingly, considering the facts of the case as submitted by both the applicant as well as the respondents, I find no merit in the OA and, therefore, it fails and stands dismissed.


(Sarweshwar Jha)
Member (A)

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