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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 12273/2015

Date of decision: 4th February, 2016

UNION OF INDIA AND ORS Petitioner
Through Mr. Ashok Singh, Advocate.

versus

PADAM LOACHAN Respondent
Through Mr. Khairati Lal and Mr. Prakash
Chandra, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

SANJIV KHANNA, J. (ORAL)

The General Manager, Northern Railway, Baroda House, the Divisional Railway Manager and Senior DME/Diesel have filed this writ petition impugning order dated 06.02.2015, passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA No.4472/2013. The impugned order allows the aforesaid OA filed by Padam Loachan seeking correction of his date of birth to 15.04.1956 in place of 11.06.1955 as recorded in the service book, in view of the school leaving certificate produced by the respondent.

2. The impugned order observes that the petitioners herein could not give any reason why the date of birth in the service book was recorded as 11.06.1955 instead of 15.04.1956 and why no attempt was made to change it afterwards, when the school certificate was produced by the respondent herein at the time of appointment.

3. A perusal of the service book, photocopy of which has been placed on record as annexure P-3, indicates that respondent was inducted as a Pointsman on 4.10.1976 and had declared his date of birth as 11.06.1955. A note to the service book stipulates that entries on this page should be renewed or re-attested after every five years, and the signature in line 22 should be dated and attested by the attesting officer with his designation. Respondent has signed the service book at four places which indicates that he had certainly examined this book on at least four occasions.

4. The school certificate issued by SBAC High School, Bajwara, District Hoshiarpur is dated 29.06.1978. It mentions the respondent's date of birth as 15.04.1956. It is obvious that the finding of the Tribunal that the respondent had given this certificate when he had joined the service in 1976 is incorrect and a wrong finding, for the certificate was

purportedly issued in the year 1978. The respondent has not placed any document on record to show that he had at any time or on any occasion from 1976 to 1978 made any correspondence or objected to the date of birth as recorded in the service book. Even after 1978, the respondent did not correspond or object to the date of birth as recorded. The first application for amendment of the date of birth was moved after 37 years of appointment or thereafter, and the OA was filed before the Tribunal nearly 38 years after his joining the service.

5. It is obvious that the Tribunal has failed to notice the delay and latches on the respondent's part in seeking "correction" of his date of birth. The learned counsel for the petitioner has drawn our attention to the Master Circular No.12 regarding the procedure for recording the date of birth on entering Railway service and alteration of the date of birth once recorded. As per the said circular, declaration of the date of birth on appointment requires production of confirmatory/documentary evidence such as matriculation certificate or a municipal certificate. In absence of such evidence or any other authenticated documentary evidence, the employee can be asked to produce an affidavit in support of declaration of his/her age. It has been stipulated that for Group C and

D Railway employees, the date of birth as recorded in accordance with the rules shall be binding and no alteration of such date shall ordinarily be permitted subsequently. Date of birth at the option of the employee can be altered when satisfactory explanation is provided as to the circumstances in which the wrong date of birth came to be entered in the service book, together with the statement of previous attempts made to amend the said record. It is also stipulated that such a request should not be entertained after completion of probation period or three years of service, whichever is earlier. It is clear that no request or prayer for change of date of birth was made within said time line. The respondent has not furnished and given any explanation for the delay and laches. There was acquiescence in view of the fact that the respondent had signed the service book on four separate occasions.

6. The petitioners have also filed photo copies of leave account forms on the record. On several leave account forms, the date of birth is recorded as 15.04.1955, though we notice that on some pages attempts have been made to interpolate the year 1955 as 1956. In any case, this does not make any difference as the date of birth mentioned in the service book is material and relevant.

7. In view of the aforesaid position, we allow the present writ petition and set aside and quash the Tribunal's order dated 6th February, 2015, directing the petitioners to change the date of birth from 11th June, 1955 to 15th April, 1956. There will be no order as to costs.

SANJIV KHANNA, J.

NAJMI WAZIRI, J.

FEBRUARY 04, 2016
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