

CHIEF MEDICAL OFFICER

A

v.

KHADEER KHADRI

JANUARY 10, 1995

[K. RAMASWAMY AND SUJATA V. MANOHAR, JJ.]

B

Service Law—Andhra Pradesh Public Employees (Recording and Alteration of Date of Birth) Rules, 1984—Correction of date of birth—Two opportunities for correction available but not availed—Belated attempt not bonafide—Hence not entitled to correction.

C

Respondent joined service in 1951 and had given his date of birth as November 14, 1933. In 1976, executive instructions were issued for correction of date of birth which was replaced by statutory rules in 1984. These prescribed the procedure for filing the application within 3 years from the date of entry into service. In 1991, respondent made a representation claiming his date of birth as July 15, 1934. His request was turned down. Respondent approached the Andhra Pradesh Administrative Tribunal, which allowed the petition and directed correction to be made. Hence this appeal by the employer.

D

Allowing the appeal, this Court

E

HELD : The respondent did not avail the opportunity for correction of the date of birth twice, once under the 1976 executive instructions and the other under the 1984 rules. Subsequent belated application is not *bona fide* but one to have the correction made to respondent's advantage after the bar of limitation created by the rules. The Tribunal has not considered the matter in the proper perspective. [176-F]

F

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 748 of 1995.

G

From the Judgment and Order dated 8.10.93 of the Andhra Pradesh Administrative Tribunal, in O.A. No. 48263 of 1991.

T.V.S.N. Chari for the Appellant.

Mrs. Urmila Sirur for the Respondent.

H

A The following Order of the Court was delivered :

Delay condoned.

Leave granted.

B Admittedly, the respondent joined the service on November 15, 1951, and had given the date of birth as November 14, 1933. In 1991, on his making a representation to the Corporation claiming that his date of birth is July 15, 1934, his request for correction was turned down. He filed O.A. No. 48263/91 before the Andhra Pradesh Administrative Tribunal, Hyderabad. By the impugned order dated October 8, 1993, the Tribunal allowed the petition and directed to make the correction. Thus this appeal by special leave.

No doubt, sub-rule (5) of Rule 2 of the Andhra Pradesh Public Employees (Recording and Alteration of Date of Birth) Rules, 1984, provides power for correction of the *bona fide* mistake in recording the date of birth. It cannot be said that it is a clerical mistake. The date of birth having been given and recorded in the service register as early in 1951, it was not a *bona fide* mistake. The respondent claimed that he discovered the mistake in 1991 that his date of birth instead is July 15, 1934 but it was recorded as November 14, 1933. This is only a ruse to get over the bar of limitation to have the date of birth entered in the service record corrected. The rules prescribe the procedure for laying the application within three years the date of entering into service. In 1976, executive instructions were issued for correction of date of birth which were replaced by statutory rules issued in 1984. The latter also prescribes the procedure. He did not avail of the opportunity when, twice, it was available to him to have it corrected. It would clearly show that subsequent belated attempt is not a *bona fide* one but to have the correction made to his advantage after the bar of limitation created by the rules. The Tribunal has not properly considered the matter in this perspective. The appeal is allowed O.A. stands dismissed. No. costs.

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A.G.

Appeal allowed.