
(2014) 01 AP CK 0038
In the Andhra Pradesh High Court
Case No : W.P. No. 8697 of 2002

Narasingh Machar

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 27-01-2014

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2014) 3 ALD 235

Hon'ble Judges : R. Subhash Reddy, J;A. Shankar Narayana, J

Bench : Division Bench

Advocate : S. Lakshma Reddy, Advocate for the Appellant; Gouri Shankar Sanghi, SC for Railways, Advocate for the Respondent

Final Decision : Dismissed

Judgement

R. Subhash Reddy, J.—This writ petition is filed by the applicant in OA No. 1094 of 2000 filed before the Central Administrative Tribunal, Hyderabad Bench at Hyderabad, aggrieved by order dated 20.2.2002. By the aforesaid order, the Tribunal dismissed the application filed by the applicant u/s 19 of the Administrative Tribunals Act, 1985, wherein, he has challenged the order of removal dated 8.2.1999, which was confirmed by the appellate authority by order dated 23.8.1999 and further confirmed by the revisional authority by order dated 14.3.2001.

2. The petitioner/applicant was appointed as Substitute Bungalow Peon in the railway service on 20.7.1995 and was granted temporary status as per the order dated 30.10.1996. At the time of appointment, he had given his original transfer certificate issued by the school authorities at Gujarat for verification, and as per the figures mentioned by the applicant, the recording Clerk had entered the date of birth of petitioner as 5.12.1966. After his appointment, when it came to light that he misguiding the concerned Clerk by giving wrong date of birth so as to come within the zone of consideration having regard to the age restrictions, disciplinary proceedings were initiated against him as per the provisions under

the Railway Servants" (Discipline and Appeal) Rules of 1968. In the disciplinary proceedings, the following charge was framed against the petitioner:

Sri Narasingh Machar, B/Peon of CMD/SC was appointed on 20.5.1995. At the time of entering into the service he submitted a School Leaving Certificate which was written in Gujarathi Script in which his date of birth was written as 5.12.1959. The upper limit for entering Rly. Service is 33 years even after relaxation privilege given to SC and ST. At the time of joining the Rly. Service, Sri Narasingh Machar has crossed 35 years of age. He misguided the Cadre Clerk and counter signed on the SR form to attest the wrong entry of date of birth as 5.12.1966 in the Service Register which is the basic record for every employee. In the statement of Sri Narasingh Machar, he stated that his date of birth as mentioned on the original certificate is only the correct date of birth and the original date of birth certificate is with CMD/SC and he requested the administration to excuse him for the offence.

By the above act of commission Sri Narasingh Machar, B/Peon to CMD/SC failed to maintain absolute integrity and behaved in a manner of unbecoming of Rly. Servant and thus he has violated Rule No. 3(1)(i) and (iii) of Rly. Services (Conduct) Rules, 1966.

3. In the disciplinary proceedings, though the petitioner/applicant had admitted the charge, subsequently, on the ground that he was forced to admit the charge, he approached the Tribunal questioning the final orders of removal passed in the disciplinary proceedings. The order of removal was challenged by way of appeal and revision, but he was unsuccessful, as such, ultimately, he approached the Central Administrative Tribunal, Hyderabad Bench. The Tribunal, by impugned order, dismissed the O.A., by recording a finding that the disciplinary authority had passed the speaking order and even a perusal of records does not disclose any irregularity or infirmity in the procedure followed in the disciplinary proceedings.

4. In this writ petition, it is contended by the learned Counsel for petitioner that as he produced the certificate issued by the school authorities at the time of entry into service, he is not at fault and as the respondents had entered the wrong date of birth, he cannot be held responsible so as to remove him from service at this point of time. On the other hand, it is submitted by Sri N. Gouri Shankar Sanghi, learned Counsel for respondents that as the certificate was issued by the authorities of Gujarat and as the figures in the certificate could not be understood by the concerned Clerk, petitioner had misguided the Clerk so that wrong date of birth is entered in the Service Register. It is submitted that if the correct date of birth is taken as 5.12.1959, it is not in dispute, the petitioner was over-aged even by the date of his appointment. It is submitted that the maximum age limit was 33 years as the petitioner/applicant belong to Scheduled Caste community, and thus, even by that time, he had crossed 33 years of age, as such, he was not qualified for appointment.

5. Having heard learned Counsel for the parties, we have also perused the impugned order passed by the Tribunal as well as the orders passed by the disciplinary, appellate and revisional authorities.

6. A perusal of the inquiry report shows that in Ex. P2, statement of Smt. P.V. Seetharamamma, Senior Clerk in CPO's office, who entered the particulars, she stated that she recorded the date of birth of petitioner as 5.12.1966, based on the certificate in Gujarathi Script, produced by the petitioner while he was telling figures contained therein. It is further categorically stated that as she did not know the language (Gujarathi), she mentioned the wrong date of birth in the official records of the petitioner, as stated by him. In view of the said evidence on record, it is clear that only to gain entry into service, petitioner had misguided the concerned Clerk, and thus, he is responsible for making a wrong entry with regard to his date of birth. As it is not in dispute that the correct date of birth of the petitioner as per the transfer certificate issued by the school authorities is 5.12.1959, he was not qualified for appointment, for not being within the prescribed age limit of 33 years, which was applicable during the relevant point of time. As it is proved in the inquiry that the entries were made only on the instructions given by the petitioner, and as no other infirmity is pointed out in the disciplinary proceedings, and in view of the concurrent findings recorded by the authorities and the Tribunal, we do not find any merit in this writ petition, warranting interference. The writ petition is accordingly dismissed. No costs. Miscellaneous applications pending, if any, shall stand closed.