

BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR.

Service Appeal No. 894/2023.

Title: "Khawaja Arif Ullah V/S IGP KP & Others"

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Deponent

22-1-2024
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR.

Service Appeal No. 894/2023.

COMMENTS ON BEHALF OF RESPONDENTS (02, 03 & 04).

Respectfully Sheweth

The para-wise reply of the respondents is as under.

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 10658

Dated 19-1-2024

Preliminary Objections:-

- a) The appellant has no cause of action or locus standi to file the appeal.
- b) The appeal is not maintainable in the present form.
- c) The appeal is bad for mis-joinder and non-joinder of necessary parties.
- d) The appellant is estopped to file the appeal by his own conduct.
- e) The appeal is barred by law and limitation.
- f) The appellant has not come to the Honorable Tribunal with clean hands.

FACTS:-

1. Pertains to record, hence needs no comments.
2. Pertains to NADRA, hence needs no comments.
3. Pertains to record, hence needs no comments.
4. That, the appellant was initially enrolled as constable in Police Department in the year 2007, later on, he was transferred to CTD KP vide order No. 6421-23/E-IV, dated 08.09.2014. On 24.10.2023 he was transferred back to his parent District i.e. Peshawar, vide order 8448-49/E-IV (copy of order is annexed as annexure "A"). During his posting in CTD he submitted an application to the W/IGP KP, wherein, he stated that, on expiry of his CNIC he approached to NADRA for renewal of his CNIC. Meanwhile, this came into his notice that his CNIC was blocked due to incorrect date of birth i.e. 06.04.1985 while as per his stance, his correct date of birth is 06.04.1988. In this regard, the appellant filed Suit No. 105/1/2018 in the court of Civil Judge-II, Peshawar, for correction of his date of birth against (1) Chairman Board of Intermediate & Secondary Education Peshawar & (2) Director General NADRA phase V Hayatabad, Peshawar. **It is pertinent to mention here that he failed to declare Police Department as respondent in that specific Suit.** Accordingly, the case was decided vide Judgment dated 30.11.2019 in his favor. Subsequently, the appellant preferred the above mentioned application before the W/IGP KP for correction of his date of birth which was filed on the following grounds, which are reproduced as under:

"The officer could get his date of birth changed on furnishing adequate documentary evidence within two years of the employment, remained silent for more than sufficient time and did nothing to agitate against such entry despite it being within his conscious knowledge. Civil Servant, who had slept over his right more than 15/16 years, could not be allowed to agitate dead issue at such belated stage [1994 SCMR 1633 ref 1995 PLC (CS) 1067(b)]. Date of birth shown in character roll on corresponding record of Police official can be altered only with the sanction of IG Police on production of proof to his satisfaction. Under proviso to Rule 9-7 of Police Rules 1934 (amended 2017), such an alteration may only be made after special enquiry if applied within two years of entry of Police official into service. Police official is required to approach the forum under Rule ibid for correction his date of birth [2008 TD 451].

The above two authorities of Apex Court clarified it that the officer is not eligible at this stage for correction of date of birth.

The Judgment/decree of Civil Court passed by the Civil Judge-II Peshawar vide dated 30.11.2019 in favor of petitioner/applicant is not binding on this establishment as the plaintiff made defendants Chairman BISE Peshawar and Director General NADRA Peshawar, but not Police department.

The Apex Court read with Rule ibid, the application for alteration of date of birth may be filed".

Moreover, in continuation of the Para it is also worth to note that the appellant is misinterpreting the Police Rules 12.15(2), actually, he was appointed as constable in the year 2007 on qualification of F.A, on the basis of his academic Certificates/educational documents, wherein his date of birth was clearly mentioned as 06.04.1985. Furthermore, before his appointment, he was properly examined by Medical Superintendent Civil Hospital, Peshawar, whereby 06.04.1985 was entered as his correct date of birth (copy of letter No. 2445/13-IV dated 16.03.2023 is annexed as annexure "B" & Appointment order, copy of Service Book 1st page, Academic Certificates, Medical Certificate & application for appointment are annexed as annexure "C" respectively).

5. Bringing the prevailing circumstances & situation regarding the matter before this Hon'ble Court, the respondents submit reply in the instant appeal, on the following grounds.

GROUND

- A. First part of the Para pertains to record. While the rest of Para is incorrect, that appellant filed Suit No. 105/1/2018 in the court of Civil Judge-II, Peshawar, for correction of his date of birth against (1) Chairman Board of

Intermediate & Secondary Education Peshawar & (2) Director General NADRA phase V Hayatabad, Peshawar. Accordingly, the case was decided vide Judgment dated 30.11.2019 in his favor. Subsequently, the appellant preferred an application before the W/IGP KP for correction of his date of birth which was filed on the grounds mentioned in Para No. 04 of facts in detail i.e. *“The Judgment/decree of Civil Court passed by the Civil Judge-II Peshawar vide dated 30.11.2019 in favor of petitioner/applicant is not binding on this establishment as the plaintiff made defendants Chairman BISE Peshawar and Director General NADRA Peshawar, but not Police department”*.

- B. Incorrect, *“The officer could get his date of birth changed on furnishing adequate documentary evidence within two years of the employment, remained silent for more than sufficient time and did nothing to agitate against such entry despite it being within his conscious knowledge. Civil Servant, who had slept over his right more than 15/16 years, could not be allowed to agitate dead issue at such belated stage [1994 SCMR 1633 ref 1995 PLC (CS) 1067(b)] is annexed as annexure “D”*.
- C. Incorrect, the appellant was dealt in accordance with law & rules.
- D. Correct to the extent that the head of the Department has full power, in case of clerical error but the case of the appellant is different. No clerical mistakes have been done by the clerical staff of the Police Department, rather it was his responsibility to inform Police Department well in time i.e. his initial two (02) years of service. Which reflects his laxity.
- E. Incorrect, the appellant is misinterpreting the Police Rules 12.15(2), moreover he was appointed as constable in the year 2007 on qualification of F.A, on the basis of his academic Certificates/educational documents, wherein his date of birth was clearly mentioned as 06.04.1985. Furthermore, before his appointment, he was properly examined by Medical Superintendent Civil Hospital, Peshawar, whereby 06.04.1985 was entered as his correct date of birth.
- F. Correct, that the appellant has a right and entitlement to the entrance of correct date of birth in his service record but within due time i.e. 02 years, Under proviso to Rule 9-7 of Police Rules 1934.
- G. Incorrect, as already explained above.
- H. Bringing the prevailing circumstances & situation regarding the matter before this Hon'ble Court, the respondents seek permission of this Hon'ble Court to raise additional grounds at the time of arguments.

PRAYER:

It is therefore, humbly prayed that keeping in view of aforementioned submissions, the Honorable Court may very kindly dismiss the instant appeal being devoid of merits & facts, please.



(Imran Shahid) PSP
Deputy Inspector General of Police,
CTD, Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 04)



(Shaukat Abbas) PSP
Addl: Inspector General of Police,
CTD, Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 03)



(Dr. Muhammad Akhtar Abbas) PSP
DIG/Legal, CPO
For: Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 02)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA.

Service Appeal No. 894/2023.

Khawaja Arif Ullah

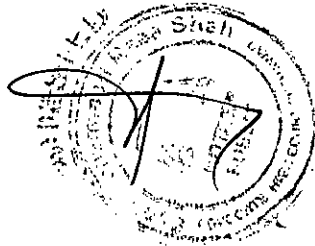
.....(Appellant)

VERSUS

IGP KP & Others.....(Respondents)

AFFIDAVIT

I, the below mentioned respondent, do here by solemnly affirm and declare on oath that the contents of reply submitted are correct and true to the best of our knowledge and belief and that nothing has been concealed from this Honorable Court.



(Imran Shahid) PSP
Deputy Inspector General of Police,
CTD, Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 04)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA.

Service Appeal No. 894/2023.

Khawaja Arif Ullah

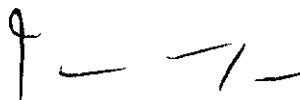
.....(Appellant)

VERSUS

IGP KP & Others.....(Respondents)

AUTHORITY LETTER

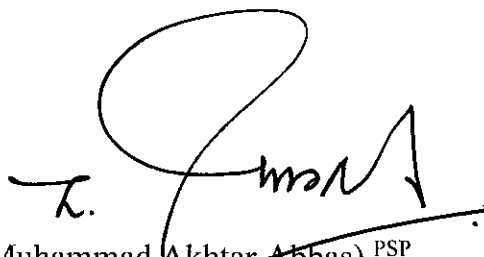
We, the undersigned, do hereby authorize DSP Syed Amir Abbas having CNIC NO: **17301-8836248-7**, and ASI Wajid Khan having CNIC# **17301-1515976-9**; both of CTD HQrs, Peshawar to submit Para-wise comments in Service Appeal No. 894/2023 Titled "**Khawaja Arif Ullah Vs IGP KP & Others**" and to pursue the matter on behalf of the undersigned



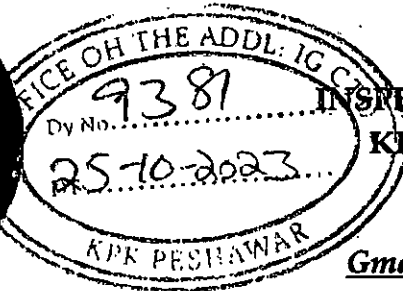
(Imran Shahid) PSP
Deputy Inspector General of Police,
CTD, Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 04)



(Shaukat Abbas) PSP
Addl: Inspector General of Police,
CTD, Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 03)



(Dr. Muhammad Akhtar Abbas) PSP
DIG/Legal, CPO
For: Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 02)



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA,
Central Police Office,
Peshawar.

Gmail:- E4branchcpo@gmail.com

No. 8448-49/E-IV, dated Peshawar, the 24/10/2023

ORDER

REPATRIATION:- Head Constable Khawaja Arif Ullah Belt No. 1374 of Capital City Police, Peshawar presently serving in CTD Khyber Pakhtunkhwa is hereby repatriated to his parent District Capital City Police, Peshawar with immediate effect.

(Signature)
(DR. ZAHD ULLAH)PSP
AIG/Establishment

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

24.10.2023

ENDST: NO. & DATED EVEN:-

Copy forwarded to the:-

1. Capital City Police Officer, Peshawar.
2. Deputy Inspector General of Police, CTD Khyber Pakhtunkhwa with reference to his office letter No. 17191/EC/CTD, dated 26.09.2023

SP Admin
Accounts/OAS/ SRC

ll

addl: Inspector General of Police
CTD Khyber Pakhtunkhwa
Peshawar

25/10/23

EC/OAS/ SRC/ Acc

ll

SP Admin
24/10/2023

Attested

(Signature)
DSP LEGAL
CTD HQ PESHAWAR

9

OFFICE OF ADDL. INSPECTOR GENERAL OF POLICE, CTD
KHYBER PAKHTUNKHWA, PESHAWAR.

No 19168 /EC/CTD

Dated Peshawar the 31 / 10 / 2023.

Copy of above is forwarded for information and necessary action to the: -

1. MHC, CTD HQrs, Peshawar, with reference to CPO Peshawar office order No. 8448-49/E-IV dated 24-10-2023, relive HC Khwaja Arif Ullah No. 1374 to his parent district i.e. CCP, Peshawar with immediate effect under intimation to this office, please.



(JANIS KHAN)
SP Admn

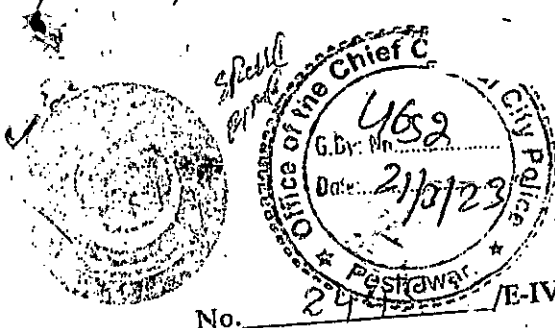
For Addl: Inspector General of Police,
CTD, Khyber Pakhtunkhwa,
Peshawar





Attested

FDSP LEGAL
CTD HQ PESHAWAR



POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE, PESHAWAR
Gmail: - E4branchcpo@gmail.com

No. 2477/E-IV dated Peshawar the 16/03/2023

To: The Capital City Police Office,
Peshawar

Subject: APPLICATION FOR CORRECTION IN DATE OF BIRTH

Memo. Please refer to your office letter No. 3121/CRC dated: 12.02.2023,
on the subject noted above.

~~As opined by the IAG Legal CPO that "The officer could get his date of birth changed on furnishing adequate documentary evidence within two years of the employment remained silent for more than sufficient time and did nothing to oppose against such entry despite it being within his conscious knowledge. Civil Servant, who had slept over his right more than 15/16 years, could not be allowed to agitate dead issue at such belated stage [1994 SCMR 1633 ref 1995 PLC (CS) 1067 (b)].~~

Date of birth shown in character roll or corresponding record of Police official can be altered only with the sanction of IG Police on production of proof to his satisfaction. Under proviso to Rule 9-7 of Police Rules 1937 (as amended 2017), such an alteration may only be made after special enquiry if applied within two years of entry of Police official into service. Police official is required to approach the forum under Rule *ibid* for correction his date of birth [2008 TD 451].

The above two authorities of Apex Court clarified it that the officer is not eligible at this stage for correction of date of birth.

The Judgment/decree of Civil Court passed by the Civil Judge-II Peshawar vide dated: 30.11.2019 in favor of petitioner/applicant is not binding on this establishment as the plaintiff made defendants Chairman BISE Peshawar and Director General NADRA Peshawar, but not Police department.

The Apex Court read with Rule *ibid*, the application for alteration of date of birth may be filed".

Ecl: Service Department

[Handwritten signature and list of names]

S/R-CC
+ 100 CC

Attested
[Signature]
DSP LEGAL
CTD HQ PESHAWAR

[Signature]
16/3/23
(AFSAR JAN)
Registrar

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

ENLISTMENT ORDER.

11 Amer - C

Recruit/Constable Khwaja Arif ullah S/O Muhammad Tehmash

R/O Moh: Khan Baba Pir Sahib PS Suburb

Distt: Peshawar is hereby enlisted as recruit/Constable in BPS-5
as selected by the recruitment Committee w.e.f _____ and
allotted Constabulary No 4941-RRP

Height 5'-11" Chest 33"x35"

Education FA D/O Birth 6 / 4 / 1985

His service is purely on temporary basis and liable for termination at any
time without any notice.

OB No. 2118

[Signature]
SUPERINTENDENT OF POLICE.

Dated 25 / 17 2007.

3 HORS: PESHAWAR.

Enlistment order OSI Branch

Attested
[Signature]
'DSP-LEGAL'
CTD HQ PESHAWAR'

CHARACTER AND SERVICE ROLL OF

CONSTABULARY NO. () in
 DITTO () in
 DITTO () in

DISTRICT
 DISTRICT
 DISTRICT

Name	Father's Name
Tribe or caste	
Village or Town	
Post and Telegraph Office	
Police Station	
District	
Province	
Date of Birth	
Height	
Chest Measurement	
Date of Enrolment	
Age on Enrolment	
Distinctive Marks	

Muhamajid Amirullah

Mohammad Tanush

Mohd. Noor

Mohd. Akbar Subeefi's Sahib

do

Suburb

DESHANAR

M.P.F.

06-04-1985

5-11"

33+25"

25-7-2007

22 Jun (84 M/C)

2 Verification Roll No. _____ dated _____ received back and attached to the Fauji Misal.

3 Government Service prior to present employment, which is approved for pension service

Service or Department	Rank of Grade	Pay of last Appointment	From	To	Period			
					Years	Month	Days	
Cause of and character on discharge from above service.								

Reference to orders approving above service for pension service in the Police Department.

Agreement.—I understand that I have been appointed under section 7 of the Police Act (V of 1861), and the purport of that section and the provisions of the Act and of the Rules issued under it and now in force, by which my discipline and conduct are governed and the provisions of the Act and of the Rules issued under it and now in force, by which my discipline and conduct are governed are hereby explained to me. I agree to serve faithfully under the provisions of the said Police Act and to obey all lawful orders issued by my Superior Officers and undertake not to resign my appointment within three years from the date of my enrolment. I received a certificate of appointment issued under section 8 of the Police Act (V of 1861).

Attestsd
 Signature

Impression of fingers and thumb of left hand.

Right little	Left ring	Left middle	Left thumb

LEGAL
 CHIEF CLERK P.S.M.A.

CHARACTER ROLL OF 6. APPOINTMENTS, PROMOTIONS, REDUCTIONS, DISCHARGES, ETC

(Continued.)

1	2	3	4	5
Appointed, promoted, suspended, reduced, discharged, dismissed, resigned or died	To what grade and pay Appointed, promoted or reduced	Date	No. of District Order	Full Signature of Superintendent of Police
<p>Appointed as T/Constable of BPS No 5 (2780-135-6820)</p> <p>27.8.01, PM</p> <p>OB No 2118</p> <hr/> <p>25-7-2001</p> <p>3340</p> <p>Pay Fixed Provisionally at Rs 3340/PM</p> <p>w.e. from 1-7-2008 P.B.S. S</p> <p>in the revised basic pay scales 05 vide Finance Deptt. Litter No. FD (PRC) 1-1/05, dt. 9-7-08</p> <p>SP/FRP Pesh:</p> <p>3340/5</p>	<p>Character</p> <p>3340</p> <p>P.I. as Rs 3500 @ Rs 3500/PM with effect from 1.12.08</p> <p>SP/FRP</p>		<p>1</p>	<p>[Signature]</p>

7. TRANSFERS BEYOND THE DISTRICT.


1	2	3	4
Date	Office of the Accountant General Khyber Pakhtun Khwa Peshawar	Authority for transfer	
<p>6/8/05</p>	<p>Pay Fixed in the Revised Basic Pay Scales</p> <p>R.A.P.S. From</p> <p>Pay Fixed @ Rs 3340/62 B w.e.f. 01-07-2007</p> <p>Pay Fixed @ Rs 3340/814 B w.e.f. 01-07-2008</p> <p>R.A.P.S. 5400/260 B 5</p> <p>Pay Fixed @ Rs 6180/3200 B 5 w.e.f. 01-07-2011</p> <p>Date of Next Increment is on 01-12-2011</p> <p>Accounts Officer Pay Fixation Party</p>	<p>[Signature]</p>	

3

13

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION PESHAWAR

Roll No: 17199



Peshawar N.W.F.P. Pakistan
PROVISIONAL CERTIFICATE
SECONDARY SCHOOL CERTIFICATE EXAMINATION

SESSION 2002 (Supply)

THIS IS TO CERTIFY THAT Khawaja Arif Ullah

Son of Tamash Khan

and resident of District Peshawar

has passed the *Secondary School Certificate Examination* of the Board of Intermediate and Secondary Education, Peshawar held in *October, 2002* as a *Private* candidate, securing *377* marks out of *850* and has been placed in Grade "*D*" in the following subjects.

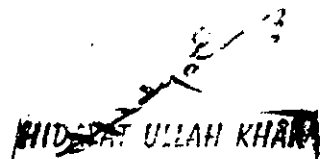
- | | | | |
|--------------|---------------|---------------------|---------------------|
| 1. English | 2. Urdu | 3. Islamiyat (Comp) | 4. Pakistan Studies |
| 5. New Fiazi | 6. G. Science | 7. Islamic Studies | 8. Pushto |

Date of birth according to admission form is (06-April-85)

Date of Issue December 14, 2002

Khaksar and BRAINS Software Enterprise (KBSoft)


Asst. Secretary (Certificate)


HIDAYAT ULLAH KHAN
NAZIM
JIC Hazar District Board No. 27

Attested


DSP LEGAL
PESHAWAR

S.No. 255545

Roll No. 17199



Board of Intermediate and Secondary Education
Peshawar N.W.F.P. Pakistan
Secondary School Certificate Examination
SESSION 2002-SUPPLEMENTARY
(Humanities Group)

Attested
CHIEF PESHAWAR
TECHNICAL
OFFICE

This is to Certify that Khawaja Arif Ullah Son / Daughter of Tehmish Khan
and a resident of Peshawar District has passed the Secondary School Certificate
Examination of the Board of Intermediate and Secondary Education, Peshawar held in September, 2002 as a Private
candidate. He / She obtained 377 Marks out of 850 and has been placed in Grade D Representing Fair

The Candidate passed in the following subjects:

- | | | | |
|------------|---------------------|--------------------|--------------------|
| 1. English | 3. Islamiyat | 5. Mathematics | 7. Islamic Studies |
| 2. Urdu | 4. Pakistan Studies | 6. General Science | 8. Pashto |

Date of birth according to admission form April 6, 1985

[Signature]
Asstt Secretary

[Signature]
NAZIM
Ward No. 2

[Signature]
Secretary

886
434

D

MEDICAL CERTIFICATE.

Name of Official..... Khawaja Asif Allah.....
 Caste or race..... Islam (Phukhtun).....
 Father's name..... Muhammad Tehmesh Khan (S.I.).....
 Residence..... Hazar Khawari, Peshawar.....
 Mohallah Khan Baba.....
 Date of birth..... 06-04-1985.....
 Exact height by measurement..... 5-11".....
 Personal mark of identification..... Male on Face (IF).....
 Signature of the Official..... *[Signature]*.....
 Signature of head of office.....

Seal of Office.....

Attested

[Signature]
FDSP LEGAL
CTD HQ PESHAWAR

I do hereby certify that I have examined Mr. Khawaja Asif Allah a candidate for
 employment in the Office of the P. Dept.
 and can not discover that he had any disease communicable or other constitutional
 affection or bodily infirmity except nil

I do not consider this as disqualification for employment in the office of the.....
 His age according to his own statement 22 year and by
 appearance about 22 years.

Attested
[Signature]
 Superintendent
[Signature]

[Signature]
M.S.A.

LEFT HAND THUMB AND FINGER IMPRESSIONS.....

Medical Superintendent,
Civil Hospital.....



7/7

To

The Chief Capital City Police,
N.W.F.P., Peshawar.

Subject

APPOINTMENT AS A CONSTABLE

Respected Sir,

1. With great humble request that I have come to know through newspaper that a few posts of Police Constables are lying vacant under your kind control. So I offer myself as a candidate with the following qualification:

1. Matric (From B.I.S.E. Peshawar).
- F.A. (Continued)

2. I am a young man of 21 years with sound physique and good moral character.

3. I belong to a respectable family of village Harar Khawani.

4. In view of the above it is therefore requested that I may kindly be given a chance to serve under your kind control.

Thanking you in anticipation --

yours sincerely,

Khawaja Asifullah
S/O M. Tahir Khan
(Retired S.I. Peshawar)
Mollah Gashi Khan Bala
Harar Khawani village, Teh. Dish. Peshawar

1994 S C M R 1633

[Supreme Court of Pakistan]

17

Present: Saad Saood Jan and Sajjad Ali Shah, JJ

M.R. KHALID---Petitioner

versus

CHIEF SECRETARY, PUNJAB and another---Respondents

Civil Petition for Leave to Appeal No. 726-L of 1992, decided on 19th December, 1993.

(From the judgment/order of Punjab Service Tribunal, Lahore, in Appeal No. 270 of 1991).

Constitution of Pakistan (1973)---

---Art. 212(3)---Correction of date of birth of civil servant---Civil servant while taking competitive examination had himself declared his date of birth to be 2-6-1930 and thereafter remained in service for about 35 years---Civil servant's name together with his declared date of birth appeared in the gradation lists and civil lists periodically published by the Provincial Government but he did not object to the incorrect publication of his date of birth till a few years before his retirement---Mere fact that civil servant was able to obtain a decree from Civil Court for correction of date of birth, did not advance his case for the Government was not a party to that civil suit brought by him---Silence of civil servant over the major portion of his service was such that he did not merit a favourable decision from the Government relating to correction of his date of birth---Service Tribunal's decision against civil servant did not warrant interference---Leave to appeal was refused in circumstances.

Raja Muhammad Anwar, Senior Advocate Supreme Court for Petitioner.

Kh. Saeed-ul-Hassan, Advocate Supreme Court and Rao Muhammad Yousaf Khan, Advocate-on-Record for Respondents.

Date of hearing: 19th December, 1993.

ORDER

SAAD SAOOD JAN, J.-The petitioner joined the Provincial Civil Service (Executive Branch) through a Competitive Examination on 19-8-1955. He stated his date of birth to be 2-6-1930. He held senior appointments in the Provincial Administration and in accordance with his self-declared date of birth he was retired from service with effect from 1-6-1990, that is, when he reached the age of 60 years.

2. A few years before his retirement he filed a civil suit against the University of the Punjab for a declaration to the effect that he was actually born on 14-11-1933 at Chah Ram Wala, Tehsil Shorkot. The suit was dismissed by the trial Court. However, on appeal, an Additional District Judge at Lahore accepted his appeal and granted him a declaration to the effect that his date of birth was 2-6-1933. Apparently, the University did not care to challenge the declaration granted by the Additional District Judge in a higher forum.

Alleged
Am
DSP LEGAL
CTD HQ PESHAWAR

18

3. Armed with the decree of the Additional District Judge the petitioner made a representation to the Government for correcting his date of birth and rescinding the order of his retirement. His representation was rejected by the Government whereupon he preferred an appeal before the Punjab Service Tribunal. The appeal was dismissed. He now seeks leave to appeal from this Court.

4. After hearing the learned counsel for the petitioner we are not persuaded that any case for interference with the judgment of the learned Tribunal has been made out. Admittedly, while taking the Competitive Examination the petitioner had himself declared his date of birth to be 2-6-1930. He remained in service for about 35 years thereafter. His name together with his declared date of birth appeared in the gradation lists and civil lists periodically published by the Provincial Government. He did not object to the incorrect publication of his date of birth till a few years before his retirement. The mere fact that he was able to obtain a decree from the Additional District Judge did not advance his case for the Government was not a party to the civil suit brought by him. Though the Government has undoubtedly the power to correct an incorrectly recorded date of birth of a civil servant but the silence of the petitioner over the major portion of his service was such that he did not merit a favourable decision from the Government. We are, therefore, unable to find any substance in this petition. It is hereby dismissed.

AA./M-1939/S

Leave refused.

Attested
[Signature]
DSP LEGAL
CTD HQ PESHAWAR