

Supreme Court of India

Chief Medical Officer vs Khadeer Khadri on 10 January, 1995

Equivalent citations: 1995 AIR 850, 1995 SCC (2) 82

Author: K Ramaswamy

Bench: Ramaswamy, K.

PETITIONER:

CHIEF MEDICAL OFFICER

Vs.

RESPONDENT:

KHADEER KHADRI

DATE OF JUDGMENT 10/01/1995

BENCH:

RAMASWAMY, K.

BENCH:

RAMASWAMY, K.

MANOHAR SUJATA V. (J)

CITATION:

1995 AIR 850

1995 SCC (2) 82

JT 1995 (1) 453

1995 SCALE (1) 191

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. Delay condoned.

2. Leave granted.

3. 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.

4. 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 1955 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 from 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.