

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (S/S) No.2324 of 2023

Asha

.....Petitioner

Versus

State of Uttarakhand & others

.....Respondents

Presence:-

Mr. Harshit Sanwal, learned counsel for the petitioner.

Mr. V.S. Rawat and Mr. Bhupendra Koranga, learned Brief Holders for the State.

Mr. K.K. Tiwari, learned counsel for respondent nos.2 & 3.

Hon'ble Pankaj Purohit, J. (Oral)

By means of this writ petition, petitioner has challenged the notice of superannuation dated 12.10.2023 issued by respondent-Nagar Palika Parishad to the petitioner, whereby she was informed that she would be retired on superannuation on 31.12.2023 and further to correct the date of birth of the petitioner to 20.01.1968 in her service record.

2. Petitioner was initially appointed by Nagar Palika Parishad, Nainital, as Sanitation Worker on 26.11.1987 and since then, she has been performing her duties to the best of her abilities and to the satisfaction of her superiors. Her work and service have always been appreciated by the respondent-Nagar Palika Parishad and she is in continuous regular service with the respondent-Nagar Palika Parishad from the date of her appointment without any break. Petitioner has no formal education and was always under *bona fide* information that her service record contained her actual date of birth and other antecedents correctly. Petitioner was shocked when she was received the notice dated 12.10.2023 impugned in the writ petition, whereby it was stated that owing to her date of birth recorded in the service record i.e. 08.12.1963, on her turning 60, she would be retired

on 31.12.2023. Thereafter, petitioner approached the office of the respondent-Nagar Palika Parishad to correct her date of birth, as according to her, her actual date of birth is 20.01.1968 not 08.12.1963 and she has requested the same to be corrected in her service record with the necessary documents supplied by her on 20.12.2023 along with her written representation.

3. Petitioner contends that from the documents i.e. her birth certificate and her Aadhar Card reveal that her date of birth is 20.01.1968, but the respondent-Nagar Palika Parishad did not decide the representation of the petitioner dated 20.12.2023. Feeling aggrieved, petitioner approached this Court.

4. Learned counsel for the petitioner very strenuously advanced the submission that since the petitioner is an illiterate lady, she could not know as to what was her date of birth recorded in her service record and it is only after receipt of the notice of the retirement on 12.10.2023, she came to know that her date of birth was recorded as 08.12.1963 instead of 20.01.1968, therefore, she deserves sympathetic approach at the hands of this Court. He further submits that the birth certificate and Aadhar Card, which are being relied upon by the petitioner, are public documents and the same should have been relied upon by this Court to extend the benefit to the petitioner.

5. Per contra, Mr. K.K. Tiwari, learned counsel for respondent nos.2 & 3 submits that it is a settled proposition of law that the date of birth of a government servant or an employee cannot be changed at the fag end of his service.

6. Having heard the rival contention of the parties, there is no manner of doubt from the factual aspect of the case that the petitioner approached Nagar Palika for correction of her date of birth only after receiving the notice of superannuation on 12.10.2023 and that too by moving the representation dated 20.12.2023, while she was shown due to retire on superannuation on 31.12.2023. In the fag end of her service, this Court cannot adjudicate the aforesaid facts of the date of birth of the petitioner in her service record.

7. So far as the argument of learned counsel for the petitioner that the documents relied upon by the petitioner are public documents under Section 74 of the Evidence Act is concerned, the said argument is misconceived simply for the reason that the Aadhar Card and birth certificate are prepared on the basis of the information supplied by a person in whose favour the said documents are issued and here in the case, the birth certificate is issued on 20.10.2023 after the service of the notice of superannuation upon the petitioner. Hence, this is not a birth certificate which was based upon concrete information.

8. Be that as it may, at this fag end of service, the change in the date of birth of the petitioner cannot be made by this Court in exercise of its discretionary jurisdiction under Article 226 of the Constitution of India. Accordingly, the writ petition fails and is hereby dismissed.

(Pankaj Purohit, J.)
29.12.2023