

Serial No. 28
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 16 of 2023

Date of Decision: 20.03.2024

Smti. Kloraris @ Klolaris Marthong
W/o (L) R. Horoo
H. No. 91, Rngi Rum, Lawjynriew
P.O. & P.S. Nongthymmai
District, East Khasi Hills

::::Petitioner

-Vs-

1.State of Meghalaya, represented by
The Chief Secretary, Govt. of Meghalaya,
at Shillong

2.Managing Director, MTDC at Shillong

3.Chief General Manager, MTDC Ltd.

::::Respondents

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. P.K. Borah, Adv.

For the Respondent(s) : Mr. K.P. Bhattacharjee, GA(For R 1)
Mr. S. Sen, Adv. (For R 2 & 3).

i)	Whether approved for reporting in Law journals etc.:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

JUDGMENT AND ORDER (ORAL)

1. The writ petitioner is before this Court with a prayer for rectification or correction of her date of birth in her service record, on the basis of the Birth Certificate, issued by the Shillong Municipal Board.

2. The brief facts of the case are that, the petitioner entered service with the respondents No. 2 and 3 w.e.f. 08.09.1986, and her date of birth, as per her application was entered as 14.12.1964. The said date of birth was also accordingly entered in the service book and the date of superannuation was also recorded therein, as 31.12.2022. The petitioner it appears after 11(eleven) years of service on 16.08.1999, submitted a school certificate dated 03.03.1985, which did not specify her date of birth, but only showed that her age was 18 years 4 months and 10 days. Thereafter, the petitioner submitted a Birth Certificate, dated 01.11.2017, issued under the Registration of Births and Deaths Act, by the Registrar thereof, indicating her date of birth as 23.02.1967. The petitioner then by a petition dated 04.03.2021, prayed that the documents submitted by her for correction of

date of birth be allowed to be withdrawn, and that her date of birth by calculation from the school certificate should be 22.08.1966. Thereafter, by another letter dated 28.07.2021, the petitioner stated that her date of birth was 21.08.1966. Another Birth Certificate dated 08.03.2022, was then submitted by the petitioner, showing her date of birth as 21.08.1966, and followed up the same with a letter dated 08.12.2022, seeking correction of her date of birth. These representations were rejected by the respondents on 23.12.2022, citing the reasons that the same could not be entertained, in view of the multiple conflicting dates of birth, and the documents submitted, had given rise to doubts as to the correctness of the date of birth, and also that, the request for change of date of birth was highly belated, and made at the fag end of her career.

3. Mr. P.K. Borah, learned counsel for the petitioner submits that the representations and furnishing of the date of birth of the petitioner were all done bonafide, as the petitioner was not aware that in her service book, her date of birth had been shown as 14.12.1964, at the time of entering service. It is also submitted that, to correct the same, the petitioner had applied for issuance of a Birth Certificate from the competent authority, which was then issued, but as the date recorded therein was wrong, the petitioner had to approach the Court again for correction, and as such, the same has resulted in two Birth Certificates, being issued with different dates. The

learned counsel then submits that, after obtaining the said correct certificate, the petitioner then submitted the same to respondent No. 2 on 08.12.2022, praying for necessary correction. It is finally submitted that, the errors cannot be attributed to any laches on her part, and that the same was occasioned by circumstances beyond her control. Learned counsel in support of his arguments has relied upon the case of *Hampong Phom vs. State of Nagaland & Ors.* reported in *2004 (Suppl.) GLT 577*, wherein it was held that, the petitioner therein having placed materials justifying his claim, as regard to his date of birth and that the date as recorded in his service record was due to overwriting, and also the non-denial of the school certificate, was entitled to relief, as claimed.

4. Mr. S. Sen, learned counsel for the respondents No. 2 and 3, has taken the Court through the sequence of documents filed by the writ petitioner, and has highlighted the fact that, the writ petitioner had provided conflicting dates of birth, and at the time which she submitted the school certificate in 1999, on which heavy reliance has been placed upon by the petitioner, no prayer was made for the change of date of birth. He submits that, it was only in 2021 and 2022, on the eve of her retirement that the petitioner agitated her case for change of date of birth. The learned counsel has also taken the Court to the Epic Card, PAN Card and Aadhaar Card of the writ petitioner, which has been filed by way of an affidavit, wherein the

date of birth has been recorded as 23.02.1967, and not as 21.08.1966, as claimed by the writ petitioner. It is contended that, it was in these circumstances that, apart from the delay, the prayer for change of date of birth was rejected by the respondents. Learned counsel has also placed two decisions in support of his arguments namely.

- (i) Karnataka Rural Infrastructure Development Limited vs. T.P. Nataraja & Ors. reported in (2021) 12 SCC 27.*
- (ii) Judgment and order dated 30.07.2019, passed in WP(C) No. 143 of 2016, (Shri Biswanath Singh vs. State of Meghalaya & Ors.)*

5. Having heard the learned counsel for the parties, it is to be noted at the outset that, the change in the date of birth is not a matter of right, even when cogent evidence is available, and the same can be rejected on grounds of delay/laches, especially when made at the fag end of service, or when the employee was about to retire. In the instant case, the writ petitioner actively sought correction of a date of birth on 08.12.2022, after the last birth certificate was issued to her on 09.03.2022, showing date of birth as 21.08.1966. From the documents appended to the writ petition, starting from the application for the post of Chambermaid, and the service book extract itself, it is seen that the petitioner's date of birth was recorded

as 14.12.1964. Thereafter, on subsequent applications, different dates were given by the first Birth Certificate dated 01.12.2017 to be 23.02.1967, and by the second Birth Certificate dated 09.03.2022 to be 21.08.1966, which has naturally created a confusion, coupled with her reliance on her school certificate. What is more intriguing however, is the fact that, in the Epic Card, PAN Card and Aadhaar Card, her date of birth is shown as 23.02.1967. This Court notes that even in the affidavit appended to the writ petition, which was sworn on 08.02.2023, the writ petitioner has shown her age to be about 58 years. All these facts put together, cannot in any manner convince this Court, therefore to come to any finding as to the correctness of the claim of the petitioner. Furthermore, the prayer for correction of age being made at the fag end of her career, the same also fails on account of delay. The case relied upon by the petitioner being on a different footing, the same will not be applicable in the instant case.

6. Accordingly, in view of the facts and circumstances of the case, no interference is called for, and the writ petition being devoid of any merit is dismissed.

Judge

Meghalaya
20.03.2024
"D.Thabab-PS"