



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WP(C)/189/2018

SHRI TATE NABUM
AGED ABOUT 40 YRS. S/O LT. HEJUNG NABUM, RESIDEN TOF VILLAGE
RILLOH, PO PAKKE KESANG DIST. EAST KAMENG, AP. MOBILE NO.
8257993801

VERSUS

THE STATE OF A.P. AND 2 ORS.
REPRESENTED BY THE CHIEF SECRETARY ,
GOVT. OF AP, ITANAGAR.

2:THE DIRECTOR GENERAL OF POLICE
Age: 0
Occupation :

3:THE ASSISTANT INSPECTOR GENERAL OF POLICE E
Age: 0
Occupation

Advocate for the Petitioner : Mr. C. Modi, Advocate.

Advocate for the Respondent : Ms. R. Basar, Govt. Advocate.

BEFORE
HONBLE MR. JUSTICE KARDAK ETE

JUDGMENT

Date : 13-06-2024

Heard Mr. C. Modi, learned counsel for the petitioner. Also heard Ms. R. Basar, learned Government Advocate appearing for the State respondents.

2. The short grievance raised by the petitioner in the present proceeding is for a direction to correct the date of birth of the petitioner as 09.09.1978 in place of 07.07.1976, which has been wrongly entered in his service book.

3. The petitioner was appointed as constable on 28.02.1996. The age of the candidate, at the relevant point of time for appointment to the post of constable, was from 17 to 20 years. According to the petitioner, he being more than 17 years of age, he was selected and appointed as constable. The certificate issued by the Headmaster clearly reflects that the date of birth of the petitioner is 09.09.1978. The petitioner had submitted the said certificate issued by the Headmaster on 12.01.1996, at the time of recruitment. Thereafter, a transfer certificate issued on 07.10.1996 was again submitted before the concerned authority. The petitioner has also relied on the matriculation certificate which indicates that the date of birth of the petitioner is 09.09.1978.

4. It is the contention of the petitioner that he has come to know the wrong entry of his date of birth only in the year 2017, when the seniority list of Assistant Sub-Inspector of Police was published, in which his date of birth was wrongly shown as 07.07.1976. On enquiry, the petitioner was informed that his date of birth has been recorded in the service book as 07.07.1976.

5. Mr. C. Modi, learned counsel for the petitioner submits that the documents including the matriculation certificate clearly reflects that the date of birth of the petitioner is 09.09.1978. However, the respondent authorities have wrongly recorded his date of birth as 07.07.1976, in the service book. He submits that since the relevant records clearly reflect the actual date of birth of the petitioner as 09.09.1978, the respondents authorities be directed to correct the date of birth of the petitioner as 09.09.1978, in place of 07.07.1976.

6. Mr. C. Modi, learned counsel, has relied on the judgment of this Court dated 18.02.2014, passed in WP(C) No.1762/2007 (**Bhuban Chandra Baruah vs. The Food Corporation of India and others**).

7. On the other hand, Ms. R. Basar, learned Government Advocate appearing for the State respondents, submits that as per the attestation form submitted by the petitioner at the time of appointment, it reflects the date of birth as 07.07.1976 and his age was shown as 20 years. The form has been filled up by the petitioner himself on 27.06.1996. On the basis of the attestation form filled up and submitted by the petitioner, the date of birth of the petitioner has been entered as 07.07.1976. The seniority list of Constable was published in the year 2004, reflecting the date of birth of the petitioner as 07.07.1976 and thereafter, in the year 2010 and then in the year 2017, the seniority lists of Head Constable and Assistant Sub-Inspector were published, clearly showing the date of birth of the petitioner as 07.07.1976. The petitioner had raised no objection despite having knowledge of his date of birth being clearly reflected as 07.07.1976.

8. Having regard to the matriculation certificate, Ms. R. Basar, learned Government Advocate, submits that the same has been obtained in the year 2011, as he completed matriculation on 19.04.2011 from the National Institute of Open Schooling, while in service. Therefore, the matriculation certificate cannot be relied on. Since the date of birth of the petitioner has been entered on the basis of the information and the documents furnished by the petitioner, no correction can be made. That apart, as per the O.M. dated 24.03.2024, it is only when there is a genuine bona fide mistake in entry of date of birth, it should be claimed for correction within five years. Since the petitioner has the knowledge of his date of birth at the time entry into service and thereafter in the year 2004, at the time when the seniority list was first published, the contention that he has come to know the wrong entry in the year 2017 cannot be accepted and therefore, there is no ground to correct the date of birth entered in the service book and the same cannot be corrected at such a belated stage.

9. Ms. R. Basar, learned Government Advocate, has relied on the decision of the Hon'ble Supreme Court in the case of **State of Maharashtra and another vs. Gorakhnath Sitaram Kamble and others**, reported in **(2010) 14 SCC 423**, to project that no application for alteration of entry relating to date of birth as recorded in the service book of the Government Servant should be entertained, after a period of five years, commencing from the date of entry into the Government Service.

10. Due consideration has been extended to the submissions of learned counsel for the parties and also perused the materials available on record.

11. The certificates placed on record shows that the petitioner's date of birth is 09.09.1978. However, the attestation form submitted by the petitioner clearly reflects that the date of birth of the petitioner is 07.07.1996. The attestation form is a document which requires to be filled up by the petitioner at the time of selection. On the basis of the records submitted, the petitioner was appointed as constable on 28.02.1996 and at that time, the petitioner was 20 years of age.

12. It is also taken on note that the seniority lists of the Constable, Head Constable and Assistant Sub-Inspector of Police were published in the year 2004, 2010 and 2017 respectively. In the seniority lists, all along, the date of birth of the petitioner was shown as 07.07.1976. No representation/objection has been laid by the petitioner when it was first brought to his notice in year 2004 that the date of birth is 07.07.1976, on the basis of the entry in his service book, based on the documents submitted by the petitioner before the authority.

13. The O.M. dated 24.03.2024, issued by the Ministry of Personnel, Administrative Reforms & Training, Department of Administrative Reforms, Govt. of Arunachal Pradesh provides for procedures for declaration of date of birth and its subsequent alteration. Amongst others, it provides that an alteration of date of birth of Government Servant can be made, with the sanction of a Ministry or Department of the State Government, under which the Government Servant is serving, if the request is made in this regard within five years of his/her entry into Government Services, if it is clearly established that a genuine bona fide mistake had occurred and if the date of birth, so altered would not make him ineligible to appear in any school or University or Union Public Service Commission/Arunachal Pradesh Public Service Commission examination in which he/she had appeared, or for entry into Government Service on the date on which he/she first appeared at such examination or on the date on which he/she entered Government Service.

14. The above O.M. dated 24.03.2024 clearly provides that any alteration of the date of birth of the Government Servant can be made if a request is made within five years of entry into Government Service and if it is clearly established that genuine and bona fide misstate had occurred.

15. It is difficult to believe the contention of the petitioner that he has come to know about the wrong entry of his date of birth as 07.07.1996 only in the year 2017, when the seniority lists of Assistant Sub-Inspector of Police was published. The petitioner had accepted the promotion from Constable to Head Constable and from Head Constable to Assistant Sub-Inspector of Police on the basis of the seniority list and other relevant criteria. The petitioner has failed to show or establish any genuine and bona fide mistake except to place on record certain documents without any other justification.

16. It is also not a case of the petitioner that despite due diligence, the entry of the date of birth in his service book, he did not have the knowledge till 2017. The fervent contention made by the learned counsel for the petitioner is only to the effect that since the documents relied on by him including the matriculation certificate clearly reflects his date of birth as 09.09.1978, it is the boundant duty of the authorities to correct the wrong entry of the date of birth in his service book.

17. On perusal of the matriculation certificate goes to show that it was issued on 18.04.2011 by the National Institute of Open Schooling. It appears that the petitioner has completed his matriculation while in service. The transfer certificate reveals that it was issued on 07.10.1996 and the certificate by the Headmaster is on 12.01.1996. However, the attestation form clearly reflects the date of birth as 07.07.1976 and he was aged 20 years.

18. On bare perusal of the judgement in **Bubhan Chandra Baruah** (Supra), it is seen that the petitioner in that case has applied for rectification of his date of birth, twelve years before his retirement, immediately after learning of the mistaken entry in the service book. In the present case, though the learned counsel for the petitioner has made an weak attempt to

show that he had come to know about the mistake/wrong entry of his date of birth in the year 2017 only, which is hard to accept, in view of the fact that he had submitted the attestation form clearly reflecting his date of birth as 07.07.1996 and thereafter, the seniority lists were published from time to time showing his date of birth and no objection was made by the petitioner till 2017. Thus, the case relied on by the learned counsel for the petitioner has no application in the present matter.

19. Having considered the matriculation certificate which reflects the date of birth as 09.09.1978 and obtained in the year 2011, I am of the view that it would not have bearing as the petitioner was appointed as constable on 28.02.1996. The other two documents may have bearing. However, since the petitioner could not establish any genuine and bona fide mistake in the entry of date of birth as 07.07.1976 and the request for correction has not been made within five years from the date of entry into service, as per the O.M. dated 24.03.2024, no relief can be granted to the petitioner at this distant point of time.

20. Having found that the date of birth recorded as 07.07.1976, at the time of entry into the service of the petitioner and had continued to exist unchallenged from the year 1996 to 2017, for more than 20 years, I am of the view that at this distant point of time, no direction can be given to correct the date of birth of the petitioner. As per the requirement of the O.M. dated 24.03.2004, such rectification is to be made within a period of five years from the date of entry into the service and on establishment of a genuine and bona fide mistake. No genuine and bona fide mistake could be established by the petitioner.

21. In view of what has been discussed herein above, I find no merit in the writ petition. Accordingly, the Writ Petition stands dismissed. No order as to costs.

JUDGE

Comparing Assistant