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2026:CGHC:24337

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPL No. 161 of 2025

* - Krishna Prasad Verma S/o Ramprasad Verma Aged About 54 Years R/o Village Manohara, Tahsil Simga, District Balodabazar-Bhatapara (C.G.) At Present R/o Village Rawan Ward No. 13, Employee No. 203962 Mines P.S. City Kotwali, Balodabazar District Balodabazar-Bhatapara (C.G.)
... Petitioner

Versus

1 - General Manger (Ma.S.) Ambuja Cement Unit- Bhatapara, Village Rawan Tahsil, Balodabazar District Balodabazar-Bhatapara (C.G.)
2 - Regional Provident Fund Commissioner Raipur District Raipur Chhattisgarh
... Respondents

For Petitioner	:	Mr. Manish Thakur, Advocate
For Respondent No. 1	:	Mr. Ashish Shrivastava, Senior Advocate with Mr. Ashutosh Shrivastava, Advocate
For Respondent No. 2	:	Mr. Pankaj Singh Advocate

Hon’ble Shri Justice Rakesh Mohan Pandey
Order on Board

17/06/2026

1. The petitioner has filed this petition seeking the following relief(s):-

- “**10(i)** That, this Hon’ble Court may kindly be pleased to call for entire record pertaining to the case of the petitioner, in the interest of justice.
- 10(ii)** That, this Hon’ble Court may kindly be pleased to set-aside the impugned order dated 04.01.2025 (Annexure P-1) passed by the learned Labour Judge Additional Charge Labour Court Balodabazar Chhattisgarh which is arising out of removal order dated 30.06.2019, in the interest of justice.

10(iii) That, this Hon'ble Court may kindly be pleased to issue the writ order or directions to the respondents to reinstate the petitioner on his service with all the back wages and consequential benefits within stipulated period as given by the Hon'ble Court, in the interest of justice.

10(iv) Any other relief which may be suitable in the facts and circumstances of the case, may also be granted."

2. The facts, in brief, are that the petitioner was appointed to the post of Drill Cum Compressor Operator (Mines) on 01.01.1989 under respondent No.1. In service record, date of birth of petitioner was recorded 25.06.1961, accordingly he retired from services after attaining age of superannuation on 30.06.2019. The petitioner raised a dispute in accordance with the provisions of Section 11 (a) of Industrial Dispute Act, 1947 before the learned Labour Court assailing his premature retirement and correction of date of birth. The petitioner pleaded that his correct date of birth is 25.06.1967 and applications were moved before the respondent authorities along with relevant documents for correction of date of birth, but no heed was paid and consequently the petitioner was forced to retire on 30.06.2019. The petitioner annexed Birth Certificate, Marksheet of Class VIIIth, Aadhar Card, Pan Card and Voter ID, wherein his date of birth is entered as 25.06.1967.
3. Respondent No. 1 filed reply and denied the contents of application. Respondent No. 1 pleaded that the date of birth of the petitioner in service record was entered on instance of the petitioner himself at the time of appointment. It was also pleaded that the application for correction of date of birth was moved by the petitioner at the verge of retirement. Respondent No. 1 adduced documents i.e. application moved by the petitioner for employment, medical check up report and

the certificate issued by the In-charge Head Master of Primary School Manohara and in these documents, date of birth of the petitioner is entered as 25.06.1961. The learned Labour Court framed issues, parties led evidence.

4. The petitioner examined himself as witness No. 1. He repeated the contents of application in examination-in-chief. In cross-examination, this witness admitted that he was engaged with respondent No. 1 in the year 1988 and his services were regularized with effect from 01.01.1989. He further admitted that application seeking employment Ex-D/1 was moved by him which contains his signature. He further stated that certificate issued by In-charge Head Master was sent by his father to him through post. In Para-39, this witness admitted that at the time of retirement, his age was 58 years. In Para-40, this witness stated that birth certificate was issued on 09.10.2018. He further admitted that there is difference in the date of birth entered in marksheet of Class VIIIth and certificate issued by Head Master. This witness further admitted that in record of respondent No. 2, his date of birth is entered as 25.06.1961. The petitioner examined Suresh Kumar Bagre witness No. 2 and Manharan Vaishnav witness No. 3. These witnesses admitted that affidavits under Order 18 Rule 4 of CPC were drafted on their behalf by the petitioner himself and they did not produce document in support of date of birth of the petitioner.
5. Respondent No. 1 did not examine any witness.
6. The learned Labour Court after due consideration and scrutiny of documentary as well as oral record, dismissed the claim of the petitioner.

7. Mr. Manish Thakur, learned counsel appearing for the petitioner would argue that the correct date of birth of the petitioner is 25.06.1967 and before retirement, applications were moved before respondents No.1 and 2 for correction of date of birth. He would submit that in support marksheet of Class VIIIth, Aadhar Card, Voter ID, Pan Card and birth certificate were annexed. He would contend that the petitioner came to know with regard to incorrect entry of date of birth in service record on 06.04.2018 and immediately thereafter representations were made. He would submit that the petitioner adduced sufficient material to substantiate his case, but the learned Labour Court failed to consider those documents and erroneously dismissed the claim of the petitioner. He would pray to allow this petition.
8. On the other hand, Mr. Ashish Shrivastava, learned Senior Advocate would argue that in service record date of birth of the petitioner is entered as 25.06.1961 and no attempt was made by the petitioner till 2018 for correction of date of birth. He would submit that according to pleadings made in application under Section 11(a) of the Industrial Dispute Act, the petitioner came to know about incorrect date of birth first time on 06.04.2018. He would submit that the petitioner attained age of 58 years in the year 2019, whereas application for correction of date birth was moved in the year 2018, thus, application was moved at the verge of retirement. He would submit that according to certificate Ex. D/3, the petitioner passed primary school certificate examination in the year 1972-73 and if date of birth of the petitioner is taken 25.06.1967, it was not possible for the petitioner to pass Vth Class examination at the age of 05 years. It is further argued that the birth certificate in favour of the petitioner was issued vide Ex. P/4-C on

09.10.2018. It is also argued that the date of birth recorded in Aadhar Card, Pan Card and Voter ID are not substantive evidence to prove date of birth. Learned Senior Advocate would submit that the learned Labour Court has considered oral as well as documentary evidence and thereafter dismissed the claim of the petitioner. He has placed reliance on the judgment passed by the Hon'ble Supreme Court in the matter of ***Bharat Coking Coal Limited and Others Vs. Shyam Kishore Singh*** reported in ***(2020) 3 SCC 411***.

9. Mr. Pankaj Singh, learned counsel appearing for respondent No. 2 would submit that in record of the Regional Provident Fund, date of birth of the petitioner is entered as 25.06.1961.
10. I have heard learned counsel for the parties and perused the documents.
11. The petitioner was appointed to the post of Drill Cum Compressor Operator (Mines) on 01.01.1989. In service record, date of birth of the petitioner was recorded as 25.06.1961. Age of superannuation in the Company of respondent No. 1 is 58 years. The petitioner attained age of 58 years on 30.06.2019 and thereafter he was superannuated. It appears that the petitioner moved application for correction of date of birth on 06.04.2018. The birth certificate was issued in favour of the petitioner on 09.10.2018, whereas applications were moved thereafter. The marksheet of Class VIIIth Middle School was issued in the year 2008-2009, but immediately thereafter no attempt was made by the petitioner for correction of date of birth. Though in Aadhar Card, Voter ID, Pan Card, the date of birth 25.06.1967 is mentioned, but those documents cannot be treated as substantive proof of date of birth of the petitioner as held by the Hon'ble Supreme Court in the matter of

Saroj & Ors. Vs. IFFCO-TOKIO General Insurance Co. & Ors. in **Civil Appeal No. 23939-23940 of 2023**. The relevant paragraphs No. 9.6 to 9.8 are reproduced herein below:-

“9.6 We find that the Unique Identification Authority of India, by way of its Circular No. 08 of 2023, has stated, in reference to an Office Memorandum issued by the Ministry of Electronics and Information Technology dated 20th December 2018, that an Aadhar Card, while can be used to establish identity, it is not *per se* proof of date of birth. This office memorandum dated 20th December, 2018 was taken note of by a learned Division Bench of the Bombay High Court in **State of Maharashtra v. Unique Identification Authority of India, and Ors, Criminal Writ Petition No. 3002 of 2022** in its order dated 28th July, 2023. The Circular is extracted hereinbelow for ready reference:-

F.No.HQ-13065/1/2022-AUTH-II HQ/8075
Unique Identification Authority of India
(Authentication and Verification Division)

UIDAI Headquarter
Bangla Sahib Road, Behind Kali Mandir
Gole Market, New Delhi-110 001
Dated 22.12.2023

Circular No.08 of 2023

Subject : Accepting Aadhar as a proof of Date of Birth
(DoB) – regarding.

It has been observed that AUAs/KUAs are considering and accepting Aadhar card / e-Aadhaar as one of the acceptable documents for proof of Date of Birth (DoB).

2. In this regard, it is pertinent to mention that, Aadhaar is a unique 12 digit ID issued to a resident after he/she undergoes the enrolment process by submitting his/her demographic and biometric information. Once a resident is assigned an Aadhaar number, it can be used to authenticate the resident through various modes as prescribed under Aadhaar Act, 2016 and Regulations framed there under.

3. At the time of enrolment/updation, UIDAI records DoB as claimed by the resident, on the basis of the documents submitted by them, as specified under the list of supporting documents for Aadhaar enrolment, provided on the UIDAI website ([https://uidai.gov.in/images/commndoc/26 JAN 2023 Aadhar List of documents English.pdf](https://uidai.gov.in/images/commndoc/26_JAN_2023_Aadhar_List_of_documents_English.pdf)). Further, it is to be noted that Regulations 10(4) and 19A of the Aadhaar (Enrolment and UPDATE) Regulations, 2016, mention that verification of the enrolment and update data shall be performed as provided in Schedule III.

4. In this regard, attention is drawn towards Office Memorandum dated 2-0.12.2018 issued by MeitY through UIDAI, where it has been stated that “An Aadhaar number can be used for establishing identity of an individual subject to authentication and thereby, per se its not a proof of date of birth” (copy enclosed).

5. This aspect of the Aadhar Act, 2016 has been reiterated/highlighted/stressed upon by different High Courts in recent judgments. The most recent one is given by the Hon'ble High Court of Bombay, in the case of *State of Maharashtra V/S Unique Identification Authority of India And Ors. dated 28.07.2023 (copy enclosed).*

6. In view of the above, it is required that use of Aadhaar, as a proof of DoB needs to be deleted from the list of acceptable documents.

7. This issues with the approval of the Competent Authority.

Encl: As above.

(Sanjeev Yadav)
Director
Tel: 011-23478609
Email: dirl.auth-hq@uidai.net.in

(Emphasis supplied)

9.7 Judicial notice has also been taken of the circular above. Recently, a learned Single Judge of the Gujarat High Court in *Gopalbhai Naranbhai Vaghela v. Union of India & Anr.* in view thereof directed the release of the Petitioner's pension in accordance with the date as mentioned in the School Leaving Certificate, keeping aside the difference in the date of birth as mentioned in the Aadhar Card, which was not relevant for the purpose of such consideration.

9.8 In *Shabana v. NCT of Delhi* a learned Division Bench of the Delhi High Court in a case where the Petitioner-mother sought a writ of habeas corpus for her daughter, recorded a statement made for and on behalf of UIDAI that “Aadhar Card may not be used as proof of date of birth.”

12. The petitioner moved application for correction of date of birth at the verge of retirement and therefore the learned Labour Court rejected such claim.
13. In the matter of ***Shyam Kishore Singh*** (supra), the Hon'ble Supreme Court while dealing with the similar issue held that just prior to retirement employee moved a representation seeking correction of date of birth and such claim cannot be entertained at fag end of service after accepting same to be correct during entire service. The relevant paragraphs No. 9 to 13 are reproduced herein below:-

“9. This Court has consistently held that the request for change of the date of birth in the service records at the fag end of service is not sustainable. The learned Additional Solicitor General has in that regard relied on the decision in *State of Maharashtra v. Gorakhnath Sitaram Kamble*⁴ wherein a series of the earlier decisions of this Court were taken note and was held as hereunder: (SCC pp.428-29, paras 16-17 & 19)

“16. The learned counsel for the appellant has placed reliance on the judgment of this Court in *U.P. Madhyamik Shiksha Parishad v. Raj Kumar Agnihotri*⁵. In this case, this Court has considered a number of judgments of this Court and observed that the grievance as to the date of birth in the service record should not be permitted at the fag end of the service career.

17. In another judgment in *State of Uttaranchal v. Pitamber Dutt Semwal*⁶ relief was denied to the government employee on the ground that he sought correction in the service record after nearly 30 years of service. While setting aside the judgment⁷ of the High Court, this Court observed that the High Court ought not to have interfered with the decision after almost three decades.

* * *

19. These decisions lead to a different dimension of the case that correction at the fag end would be at the cost of a large number of employees, therefore, any correction at the fag end must be discouraged by the Court. The relevant portion of the judgment in *Home Deptt. v. R.*

*Kirubakaran*⁸ reads as under: (SCC pp. 158-59, para 7)

‘7. An application for correction of the date of birth [by a public servant cannot be entertained at the fag end of his service]. It need not be pointed out that any such direction for correction of the date of birth of the public servant concerned has a chain reaction, inasmuch as others waiting for years, below him for their respective promotions are affected in this process. Some are likely to suffer irreparable injury, inasmuch as, because of the correction of the date of birth, the officer concerned, continues in office, in some cases for years, within which time many officers who are below him in seniority waiting for their promotion, may lose their promotions forever. ... According to us, this is an important aspect, which cannot be lost sight of by the court or the tribunal while examining the grievance of a public servant in respect of correction of his date of birth. As such, unless a clear case, on the basis of materials which can be held to be conclusive in nature, is made out by the respondent, the court or tribunal should not issue a direction, on the basis of materials which make such claim only plausible. Before any such direction is issued, the court or the tribunal must be fully satisfied that there has been real injustice to the person concerned and his claim for correction of date of birth has been made in accordance with the procedure prescribed, and within the time fixed by any rule or order. ... the onus is on the applicant, to prove the wrong recording of his date of birth, in his service book.’ ”

10. This Court in fact has also held that even if there is good evidence to establish that the recorded date of birth is erroneous, the correction cannot be claimed as a matter of right. In that regard, in *State of M.P. v. Premlal Shrivastava*⁹ it is held as hereunder: (SCC pp.667 & 669, paras 8 & 12)

“8. It needs to be emphasised that in matters involving correction of date of birth of a government servant, particularly on the eve of his superannuation or at the fag end of his career, the court or the tribunal has to be circumspect, cautious and careful while issuing direction for correction of date of birth, recorded in the service book at the

time of entry into any government service. Unless the court or the tribunal is fully satisfied on the basis of the irrefutable proof relating to his date of birth and that such a claim is made in accordance with the procedure prescribed or as per the consistent procedure adopted by the department concerned, as the case may be, and a real injustice has been caused to the person concerned, the court or the tribunal should be loath to issue a direction for correction of the service book. Time and again this Court has expressed the view that if a government servant makes a request for correction of the recorded date of birth after lapse of a long time of his induction into the service, particularly beyond the time fixed by his employer, he cannot claim, as a matter of right, the correction of his date of birth, even if he has good evidence to establish that the recorded date of birth is clearly erroneous. No court or the tribunal can come to the aid of those who sleep over their rights (see *Union of India v. Harnam Singh*¹⁰).

* * *

12. Be that as it may, in our opinion, the delay of over two decades in applying for the correction of date of birth is *ex facie* fatal to the case of the respondent, notwithstanding the fact that there was no specific rule or order, framed or made, prescribing the period within which such application could be filed. It is trite that even in such a situation such an application should be filed which can be held to be reasonable. The application filed by the respondent 25 years after his induction into service, by no standards, can be held to be reasonable, more so when not a feeble attempt was made to explain the said delay. There is also no substance in the plea of the respondent that since Rule 84 of the M.P. Financial Code does not prescribe the time-limit within which an application is to be filed, the appellants were duty-bound to correct the clerical error in recording of his date of birth in the service book.”

11. The learned Additional Solicitor General has also relied upon the decision of this Court in *Kirloskar Bros. Ltd. v. Laxman*¹¹ dated 25-4-2019 wherein the belated claim was not entertained. Further reliance is also placed on the decision of this Court in *Eastern Coalfields Ltd. v. Ram Samugh Yadav*¹² dated 27-5-2019 wherein this Court has held as hereunder: (SCC p. 422, paras 6-7)

“6. Nothing is on record that in the year 1987 when the opportunity was given to Respondent 1, to

raise any issue/dispute regarding the service record more particularly his date of birth in the service record, no such issue/dispute was raised. Only one year prior to his superannuation, Respondent 1 raised the dispute which can be said to be belated dispute and therefore, the learned Single Judge¹³ as well as the employer was justified in refusing to accept such an issue.

7. The Division Bench of the High Court¹⁴ has, therefore, committed a grave error in directing the appellant to correct the date of birth of Respondent 1 in the service record after number of years and that too when the issue was raised only one year prior to his superannuation and as observed hereinabove no dispute was raised earlier.”

12. The learned counsel for the respondent, on the other hand, has relied upon the decision of this Court relating the very same employer, namely, the appellants herein in *Bharat Coking Coal Ltd. v. Chhota Birsa Uranw*¹⁵ wherein this Court with reference to the earlier decisions of this Court has upheld the order¹⁶ of the High Court wherein a direction had been issued to effect the change in the date of birth. Having perused the same we are of the opinion that the said decision cannot render assistance to the respondent herein. This is for reason that in the said case it was taken note that in 1987 on implementation of the National Coal Wage Agreement III was put into operation for stabilising the service records of the employees and all its employees were provided a chance to identify and rectify the discrepancies in the service records by providing them a nomination form containing details of their service records. In the cited case the respondent (employee) therein had noticed the inconsistencies in the records regarding his date of birth, date of appointment, father's name and permanent address and availed the opportunity to seek correction. Though he had sought for the correction of the errors, the other discrepancies were set right but the date of birth and the date of appointment had however remained unchanged and it is in that view the employee had again raised a dispute regarding the same and the judicial remedy was sought wherein the benefit was extended to him.

13. On the other hand, in the instant case, as on the date of joining and as also in the year 1987 when the respondent had an opportunity to fill up the nomination form and rectify the defect if any, he had indicated the date of birth as 4-3-1950 and had further reiterated the same when Provident Fund nomination form was filled in 1998. It is only after more than 30 years from the date

of his joining service, for the first time in the year 2009 he had made the representation. Further the respondent did not avail the judicial remedy immediately thereafter, before retirement. Instead, the respondent retired from service on 31-3-2010 and even thereafter the writ petition was filed only in the year 2014, after four years from the date of his retirement. In that circumstance, the indulgence shown to the respondent by the High Court was not justified.”

14. Mr. Manish Thakur has placed reliance on the judgment passed by the coordinate bench of this Court in the matter of ***Mahesh Kumar Nirmal & Ors. Vs. State of Chhattisgarh & Ors*** in **WPS No. 2300 of 2013** dated **22/09/2023**. It was a case where petitioner-Shanti Bai was directed by the employer to submit relevant documents to prove her claim with regard to her date of birth. She submitted documents, but those document were not considered properly by the employer and therefore, this Court allowed the petition and directed the employer to take her date of birth 23.04.1958 and also issued direction to extend monetary benefits till age of her superannuation.
15. The facts of the present case are entirely different from the case of ***Mahesh Kumar Nirmal*** (supra). In the present case, no attempt was made by the petitioner prior to month of September, 2018, whereas the due date of retirement of petitioner was 30.06.2019. According to the pleadings made in the application, the petitioner came to know about entry of incorrect date of birth on 06.04.2018. The marksheet of Class VIIIth was issued to the petitioner in the year 2008-09 and thus, he was aware that his correct date of birth is 25.06.1967, but he approached the respondent authorities at the verge of retirement. Ex. D/3 would show that the petitioner passed primary school certificate examination in the year 1972-73 and if the contention of petitioner is accepted, he

was aged about 05 years in 1972-73 and thus, it was not possible for the petitioner to qualify examination of Class Vth at the age of 05 years. The birth certificate was issued in favour of the petitioner on 09.10.2018.

16. Taking into consideration the above discussed facts, findings recorded by the learned Labour Court and law laid down by Hon'ble Supreme Court, I do not find any good ground to interfere with the order passed by the learned Labour Court.
17. Consequently, the petition fails and is hereby **dismissed**. No costs.

Sd/-
(Rakesh Mohan Pandey)
Judge