

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WP No. 541 of 2006**

- Maya Ram Sahu, S/o Late Adhiram Sahu, aged about 50 years, R/o Village Haniband, P.O. Gandai Pandaria, Tehsil Chuiekhadan, Dist. Rajnandgaon (C.G.)

**---- Petitioner**

**Versus**

1. State Of Chhattisgarh, Through the Secretary, Public Works Department, D.K.S. Bhawan, Raipur (C.G.)
2. Chief Engineer, PWD, Department, D.K.S. Bhawan, Raipur (C.G.)
3. Superintendent Engineer, PWD, Durg Mandal, Dist. Durg
4. Sub Divisional Officer, PWD (B&R), Sub Division Office, Khairagarh (C.G.)
5. Executive Engineer, PWD (B&R) Khairagarh Division, Khairagarh (C.G.)

**---- Respondents**

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| For Petitioner       | : | Shri H.S. Ahluwalia, Advocate     |
| For Respondent/State | : | Shri P.K. Bhaduri, Govt. Advocate |

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**Hon'ble Shri Justice Prashant Kumar Mishra**

**Order On Board**

**10/04/2015**

1. Petitioner has preferred this writ petition seeking issuing of writ of certiorari for quashing order dated 13/1/2006 retiring him on attaining age of superannuation by treating his date of birth as 02/04/1956.

2. According to the petitioner his correct date of birth is 13/10/1954 which is recorded in the duplicate service book. On 24/08/2008 this Court allowed time to the respondents to file affidavit indicating the position of the case as to whether inquiry has been initiated against the petitioner, if so, as to whether it has been completed, and if not, when the same may be completed. An affidavit of the Executive Engineer, OIC of the case was filed on 06/08/2008 mentioning that the department at present is going slow in the inquiry, however, the same can be

completed within a period of 60 days, under the orders of the Court. The affidavit was not supported with any document pertaining to the inquiry. In course of hearing on 17/03/2015 a contrary statement was made by learned State counsel.

3. Shri Bhaduri, learned Govt. Adv. duly assisted by Shri Santosh Kumar Kori, Chief Engineer and Shri Hariram Dhruv, Executive Engineer would tender unconditional apology and submit that the earlier affidavit did not present the correct picture of the matter inasmuch as at that point of time no inquiry was pending against the petitioner. Shri Bhaduri would refer to the documents filed along with affidavit of the Chief Engineer, PWD, Raipur Zone, particularly the 4<sup>th</sup> class mark-sheet of the petitioner, the transfer certificate issued by the Head Master of primary school Kalegondi and the certificate of the same Head Master mentioning that petitioner's date of birth, as recorded in the school record is 2/4/1956. According to him, there are three date of birth of the petitioner recorded in three different documents. The first date of birth is 13/10/1945, the second is 13/10/1954 and the 3<sup>rd</sup> as 02/04/1956.

4. In the above view of the matter Shri Bhaduri proposes that by virtue of the circular dated 23/8/1996 read with the circular dated 01/07/1995 it would be necessary for the department to resolve the dispute about the petitioner's date of birth, for which the administrative department has been empowered by the State Govt. He would submit that, if permitted by this Court, department is willing to undertake that exercise so as to finally resolve the dispute.

5. Shri Ahluwalia, learned counsel for the petitioner would agree to the proposal, as according to him, the protraction of the dispute would harm the petitioner and would delay his pension case also.

6. In view of the above, the writ petition is disposed of with a direction that the respondent department shall decide the dispute concerning petitioner's date of birth after giving opportunity of hearing including personal hearing to the petitioner. Let this exercise be completed within a period of three months. In the event of any adverse decision, the petitioner would be at liberty to move afresh before this Court and in the event the issue is decided in favour of the petitioner he would be entitled to all the consequential benefits.

JUDGE