

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 6670 of 2011**

Rajendra Kumar Choudhary @ Hawaldar Ram S/o Late Shri R.B.Choudhary,
Aged about 58 years, Resident of Harra Padav, Keshkal, District Bastar,
Chhattisgarh.

---- **Petitioner****Versus**

1. State of Chhattisgarh, Through Secretary, Forest Department, DKS Bhawan, Mantralaya, Raipur, Chhattisgarh.
2. Chief Conservator of Forest, Aranya Bhavan, Medical College Road, Raipur, District Raipur, Chhattisgarh.
3. Conservator of Forest, Kanker, District North Bastar, Chhattisgarh.

---- **Respondents**

For Petitioner	:	Shri Prakash Tiwari, Advocate.
For Respondents/State	:	Shri R.K.Gupta, Deputy Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice**Order on Board****31/08/2015**

1. Heard Learned Counsel for the parties.
2. In this writ application, the Petitioner seeks correction of his date of birth to read as 1.7.1953 in place of 1.7.1951.
3. Learned Counsel for the Petitioner submits that he was appointed as a Forest Guard in the year 1970. The date of birth was wrongly recorded as 1.7.1951. The Petitioner represented on 15.2.1971 to rectify the mistake. Thereafter, he kept submitting representations on 5.3.1972, 5.7.1984, 13.5.1991 and 21.5.1993 on which no action was taken. A day before his scheduled superannuation i.e. 30.6.2011, he was served with a memo dated 29.6.2011 informing of his superannuation, the next day. The Petitioner had produced a certificate with regard to his age from Khalsa Higher Secondary School dated 5.3.2011 which has not been considered properly. Reliance is placed on (2011) AIR SCW 1288 (Narinder Kaur v. Punjab and Haryana High Court).

4. Learned Counsel for the State from the counter-affidavit submits that the service book of the Petitioner bears his date of birth as 1.7.1951 recorded at the time of entry in service. It was signed by him also about which no explanation is furnished in the writ petition at all. If the Petitioner was in possession of any documentary evidence with regard to his correct date of birth on the date of appointment, the onus was on him to demonstrate why it was not entered correctly and why he did not object to the same. In Form III register while furnishing the details of his family, the Petitioner himself mentioned his date of birth as 1.7.1951. On 23.5.2011, he was asked to produce the original documents in support of his proof of age which he never did.

5. The Court has considered the submissions on behalf of the parties.

6. It is not in controversy that the date of birth of the Petitioner mentioned in the service book at the time of his entry in service is 1.7.1951. It is signed by him. In Form III register while furnishing the details of his family, on 13.4.2002, the Petitioner himself again furnished his date of birth as 1.7.1951 not disputing his date of appointment.

7. If the Petitioner was in possession of documentary evidence with regard to correct date of birth, he has to offer an explanation why he did not produce it at the time of appointment. If he did, and the date of birth was still wrongly recorded in the service book, why did he sign it without protesting.

8. The writ petition was filed on 11.11.2011 after superannuation on 30.6.2011. Time and again, it has been held that relief seeking correction of date of birth at the fag end of service career is not to be entertained as apart from raising disputed questions of fact which cannot be enquired into in a writ petition, it has a cascading effect with regard to others who are in service and

who may look forward to progress in service because of superannuation of the person above him.

9. In (1994) 6 SCC 302 (State of T.N. v. T.V.Venugopalan) disapproving the Court's entertaining disputed claims for correction of date of birth at the fag end of the service career acting like a appellate Authority, it was observed as follows:

"7....The government servant having declared his date of birth as entered in the service register to be correct, would not be permitted at the fag end of his service to raise a dispute as regards the correctness of the entries in the service register. It is common phenomenon that just before superannuation, an application would be made to the Tribunal or court just to gain time to continue in service and the Tribunal or courts are unfortunately unduly liberal in entertaining and allowing the government employees or public employees to remain in office, which is adding an impetus to resort to the fabrication of the record and place reliance thereon and seek the authority to correct it. When rejected, on grounds of technicalities, question them and remain in office till the period claimed for, gets expired. This case is one such stark instance. Accordingly, in our view, the Tribunal has grossly erred in showing overindulgence in granting the reliefs even trenching beyond its powers of allowing him to remain in office for two years after his date of superannuation even as per his own case and given all conceivable directions beneficial to the employee. It is, therefore, a case of the grossest error of law committed by the Tribunal which cannot be countenanced and cannot be sustained on any ground."

10. The facts in Narinder Kaur (supra) were totally distinguishable evident from paragraph 9 of the same with regard to the evidentiary material from the local register of Birth and Deaths of the Municipal Council.

11. There is no merit in the writ application. It is accordingly dismissed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE