

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1053 of 2013**

- Labho Ram S/o Ganesh Sahu Aged About 60 years Working As Untrained Labour At Public Works Department, Bilaigarh Bhatgaon R/o Vill. Gopalpur, Thana Bilaigarh, Distt. Baloda Bazar Bhatapara (C.G.)

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

1. State Of Chhattisgarh Through The Department Of Public Works New Raipur Secretariat Mahanadi Bhawan Raipur (C.G.)
2. Sub Divisional Officer, Public Works Department (Bha/sa), Sub - Division Bilaigarh, P.S. Bilaigarh, Tahsil Bhatgaon, Distt. Baloda Bazar (C.G.)
3. The Office Superintendent Public Works Department, Raipur New Raipur, Secretariat Mahanadi Bhawan, Raipur (C.G.)

---- **Respondents**

For Petitioner : Shri N.K. Malviya, Advocate.
 For Respondents : Shri Shashank Thakur, Govt. Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****09/07/2015**

1. The petitioner would challenge the impugned notice (Annexure-P/1) whereby the SDO, Public Works Department (Building & Road), Sub Division Bilaigarh has informed him that on attaining the age of superannuation, he would be retiring on 30.4.2013.
2. The petitioner was working as unskilled labourer in the Public Works Department, Sub Division Bilaigarh (Bhatgaon). On the basis of his date of birth mentioned in the service book as 1.5.1951, he was served

with a notice (Annexure-P/1) that he would be attaining the age of superannuation on 30.4.2013.

3. According to learned counsel for the petitioner, his correct date of birth is 1.5.1953, therefore, he was entitled to continue in service till 30.4.2015. Learned counsel for the petitioner would draw attention of the Court to the relevant pages of the service book (Annexure-P/2 & P/4) wherein his date of birth was initially entered as 1.5.1953 but subsequently figure '3' was corrected to make figure '1' and thus, the date of birth originally written as 1.5.1953 was corrected as 1.5.1951. He would submit that this change was done without hearing the petitioner, therefore, the same is illegal. He would also draw attention of the Court to the certificate of Middle School Examination (Annexure-P/5) wherein his date of birth is mentioned as 1.5.1953.
4. Learned State counsel would submit that entry of petitioner's date of birth as 1.5.1951 was recorded in the year 1975 and the petitioner did not raise any objection for a period of about 37 years. For the first time the petitioner started raising plea regarding incorrect entry of his date of birth when he was served with a notice (Annexure-P/1). Therefore, the petitioner cannot be allowed to agitate this issue at the fag end of service.
5. The petitioner has not produced any clinching evidence like matriculation certificate or any other document of that nature proving his date of birth to be 1.5.1953. Certificate of Middle School Examination has also been issued in his favour in the year 2009 whereas he entered the service in the year 1974. Moreover, entries in the relevant part of the service book (Annexure-P/2 & P/4) were made in the year 1975. A close scrutiny of the document (Annexure-P/4) would reveal that initially date of birth was mentioned as 1.5.1951, which was also mentioned in the words but the same has been corrected afterwards in different handwriting. In Annexure-P/2, date of birth is

clearly mentioned as 1.5.1951. Even if there is some overwriting, the fact remains that but for raising suspicion because of the overwriting, the petitioner has not produced any evidence in his favour to demonstrate that his date of birth is 1.5.1953.

6. At this stage, learned counsel for the petitioner would insist that original service book of the petitioner be summoned for perusal.
7. Prayer could have been accepted if this Court would not have any occasion to see it at any point of time, however, the service book was earlier summoned and after perusing the original service book, this Court passed an order on 14.6.2013 in the following manner:-

“Service book of the petitioner, original as well as duplicate, has also been produced before this Court. Service book has been perused. *Prima facie*, it is found that the entry of date of birth as indicated in the original service book is not accord with the school certificates which have been attached along with the original service book. The second service book also contain petitioner's date of birth as 1.5.1951. The two documents, therefore, show that prima facie, it was maintained by the department as 1.5.1951. True it is that it was written initially as 1.5.1953, but that date not supported by the document submitted by the petitioner himself. Therefore, in this view of the matter, I am not inclined to continue interim order passed earlier. Therefore, interim order dated 29.4.2013 is vacated.”

8. Even otherwise, the petitioner has not made any allegation against any particular employee or officer to the effect that the said person has deliberately and malafidely made overwriting in the entry concerning his date of birth. No objection was ever raised by the petitioner during his entire career at any point of time.
9. The Division Bench of this Court in the matter of **South Eastern Coalfields Limited & others Vs. Sampat Kumar Chauhan** {Writ Appeal No.399/2014, decided on 27.2.2015} has dealt with the issue

and after referring to the Supreme Court judgments, held in paragraph-19 thus:-

“19. The law that a belated claim of birth should not be entertained has been repeated time and again in judicial precedents. In (2011) 9 SCC 664 (State of Madhya Pradesh & Others v. Premlal Shrivastava) where also the correction of the date of birth was sought 25 years later it was held as follows:

"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.””

10. In **U.P. Madhyamik Shiksha Parishad and others Vs. Raj Kumar Agnihotri** {(2005) 11 SCC 465}, it has been held that correction in entries made in government records on the basis of which the government servant got the service cannot be allowed to be changed just a few years before retirement or at the fag end of his retirement.

11. For the foregoing, this Court does not find any substance in this writ petition, the same is liable to be and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve