

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3634 OF 2014

1. The General Manager (P & R)
MSRTC, S.T.Central Office,
Mumbai,
2. The Regional Manager,
MSRTC, S.T.Regional Office,
CIDCO No.1, Aurangabad-5,
3. The Divisional Controller,
MSRTC, S.T.Divisional Office,
Opp. Regional Workshop, Nanded

PETITIONERS

VERSUS

1. Narendra S/o Krushnarao Hingmire,
Age-52 years, Occu-Service,
R/o "Om Sai" Apartment, Bhagya Nagar,
Nanded, Dist. Nanded,
2. Chief Officer,
Municipal Council, Pulgaon,
Pulgaon, Dist. Wardha

RESPONDENTS

Mr.R.N.Jain h/f Mr.D.S.Bagul, Advocate for the petitioners.
Mr.U.K.Patil, Advocate for respondent No.1.
Mr.S.P.Telgote, Advocate for respondent No.2.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 14/10/2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The petitioners are aggrieved by the judgment and order dated 02/09/2013, by which Complaint (ULP) No.46/201, preferred by the respondent/employee, seeking correction in the date of birth has been allowed.

3. The petitioners submit that respondent No.1 joined duties on 10/01/1979 and produced a school leaving certificate indicating his date of birth as 27/01/1958. After 32 years of being in employment, he seeks correction in his date of birth from 27/01/1958 to 21/07/1958. It is further submitted that the petitioner / Corporation relied on the School Certificate produced by respondent No.1 and entered the date in their records and his service book. He, therefore, submits that the Industrial Court has erroneously shown misplaced sympathy towards the respondent and has allowed his complaint by virtue of which he would continue in service for 6 months from 27/01/2016 to 20/07/2016, which will be his new date of retirement.

4. Mr.Patil, learned Advocate appearing on behalf of respondent No.1 submits that the Government Resolution dated 27/09/1994 enables the correction of date of birth within 5 years from the entry of an employee in service.

5. He points out that he had filed an application dated 04/06/1983 requesting the petitioners to carry out a correction in his date of birth, which is actually 21/07/1958 and not 27/01/1958. He further submits that the said application was produced before the Industrial Court and was proved and numbered as Exhibit U-14. Even if at the relevant time, the GR dated 27/09/1994 was not in existence, he had moved an application within 5 years.

6. He points out a communication dated 22/06/2010 issued by the Managing Director of the petitioner/Corporation to the Divisional Controller at Nanded seeking an explanation as to why has the application of respondent No.1 for correction in date of birth, kept pending from 1983. By an explanation dated 12/07/2010, the Divisional Controller has informed the Managing Director that the relevant papers and the documents indicating the correct date of birth of the respondent was deposited with the Central Office of the Corporation by communication dated 16/10/2008 and 02/05/2010.

7. The petitioners have pointed out an internal document dated 23/08/2010, which would indicate that the petitioner / Corporation was dealing with the application of the respondent and the same was in process.

8. The added respondent Municipal Council, Pulgaon, District : Wardha has filed an affidavit in reply. Original birth and death register is shown to the Court as well as to the litigating sides and a photostat copy of the same is placed on record with the affidavit.

9. Mr.Telgote, learned Advocate for the Municipal Council submits that the original register indicates that respondent No.1 was born on 21/07/1958 and the said entry is at Sr.No.949 in the original record. A male child is born to Krushnarao Hingmire and it is submitted that it is respondent No.1.

10. Considering the above, I do not find that the Industrial Court has committed any error in delivering the impugned judgment. The same cannot be termed as being perverse or erroneous. This petition, being devoid of merit, is therefore, dismissed.

11. Rule is discharged. No order as to costs.

(RAVINDRA V. GHUGE, J.)