

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.5290 OF 2015.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.A.R.Devakate, advocate for the Petitioner.
Mrs.S.A.Dhumal, Asstt. Govt. Pleader for the State.

**CORAM : S.V.GANGAPURWALA &
V.K.JADHAV, JJ.**

Date : 21.07.2015.

PER COURT :

1. Heard.
2. Mr.Devakate, learned counsel submits that petitioner entered into the service of the Respondent on 11.5.1981. The date of birth recorded in the service book was 1.6.1957. The learned counsel submits that on or about 11.8.2014, the petitioner applied for the correction of the date of birth in the service record as 26.9.1958. The petitioner was not having knowledge of this correct date of birth. It is only upon receipt of the record maintained by the Tahsil Office in the death and birth Register, the petitioner got knowledge of the correct date of birth ie. 26.9.1958. The learned counsel submits that the case of the petitioner has been negatived only on the ground that petitioner has not applied for correction of

the date of birth within the stipulated period of five (5) years. The learned counsel submits that clinching evidence is available then in that case the belated application also can be considered. The learned counsel relied on the judgment delivered by the Division Bench of this Court in W.P.No.5372/2014 dated 20.12.2014.

3. According to the learned counsel, the Tribunal has taken a hyper technical approach. Even information is sought by the petitioner from the School of the petitioner and it would be seen that the persons who were admitted in the year 1963, the date of birth recorded in respect of 10 students is 1.06.1957. The parents of the petitioner are illiterate and the date of birth is recorded as per the convenience. However, the entry recorded in the death and birth Register will have more probative value.

4. The learned Asstt. Govt. Pleader supports the order passed by the Tribunal.

5. We have considered the submissions of the learned counsel. Had it not been a case of availability of contrary evidence, the case of the petitioner could have been considered. The date of birth in the School record of the petitioner shows date of birth as 1.6.1957. The Tribunal has also doubted the genuineness of the certificate issued by the Tahsildar of the death and birth Register showing the date of birth of the petitioner as 26.9.1958. Till seven (7) months prior to retirement, the petitioner's date of birth is considered as

1.6.1956 for all purposes. In W.P.No.5372/2014, the judgment which we have delivered and relied by the learned counsel for petitioner, the petitioner therein was issued with the General Provident Fund statement and other documents showing his correct date of birth. However, the same is not the existing factual matrix. Consistently the date of the petitioner is being recorded as 1.6.1957 in the whole service record and there is contrary evidence produced in respect of date of birth of the petitioner, the case of the petitioner can not be considered.

6. In light of the above, the Writ Petition stands disposed of.
No costs.

(V . K . JADHAV , J .)

(S . V . GANGAPURWALA , J .)

Dt.21.07.2015.
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