

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 6154/2015
 (KHEMRAJ RATIRAM DAWARE **VERSUS** M.S.E.T.C.L., BHANDARA & OTHERS)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri G.G. Bade, counsel for the petitioner.

**CORAM : SMT. VASANTI A. NAIK AND
PRASANNA B. VARALE, JJ.**

DATE : DECEMBER 03, 2015.

By this petition, the petitioner seeks a declaration that the action on the part of the respondent no.2 of relieving the petitioner by the order dated 30.09.2012 on the ground that the petitioner has attained the age of superannuation, is illegal and violative of Regulation No.17 of the M.S.E.B. Employees Service Regulations, as the date of birth of the petitioner is 25.09.1954.

According to the petitioner, though the actual date of birth of the petitioner is 25.09.1954, it was wrongly recorded in the service record maintained by the respondent nos.1 and 2, as 25.09.1952. It is stated that the entries made in the service record are incorrect and the said fact could be depicted from the school leaving certificate of the petitioner. It is stated that in the circumstances of the case, it would be necessary to declare that the action on the part of the respondents in holding that the petitioner stood superannuated on 30.09.2012 is illegal.

The writ petition is liable to be dismissed for more reasons than one. There is an inordinate delay in approaching this Court. The petitioner stood retired from service in terms of the impugned order dated 30.09.2012. The petition is filed on 25.08.2015. It is well settled that mere filing of representations would not stop limitation. It would be necessary to refer to the

judgments reported in **(1995) Supp. (4) SCC 593** (*Administrator of Union Territory of Daman and Diu and others Versus R.D. Valand*), **(1997) 11 SCC 13** (*Jai Dev Gupta Versus State of H.P. & Another*), in this regard. Also, an age row cannot be decided by this Court in exercise of the writ jurisdiction. According to the petitioner, the date of birth of the petitioner is recorded in the service record as 25.09.1952. The petitioner did not raise any objection to the same till the petitioner was on the verge of retirement in the year 2012. This Court cannot grant a declaration on the basis of the certificate produced by the petitioner that the date of birth of the petitioner is 25.09.1954 and not 25.09.1952.

For the aforesaid reasons, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE

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