

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

WRIT PETITION NO. 6915/2014

(DHARMARAJ DAYARAM GHODMARE **VERSUS** W.C.LIMITED, NAGPUR & ANOTHER)

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

Court's or Judge's orders

None for the petitioner.
Shri A.S. Mehadia, counsel for the respondents.

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

DATE : JULY 15, 2015.

None appeared for the petitioner on 13.07.2015. On 14.07.2015, the matter was adjourned at the request made on behalf of the counsel for the petitioner. It was informed to the counsel mentioning the matter that the writ petition would be listed at serial number 1, today. None appears for the petitioner, today also.

We have perused the petition and the documents annexed thereto. We have also heard the learned counsel for the respondents.

By this petition, the petitioner impugns the communication of the respondents dated 14/15.11.2012 informing the petitioner that his request for changing his date of birth from 01.07.1956 to 01.07.1963 is rejected.

According to the petitioner, in pursuance of a circular issued by the respondent no.1 asking the employees to raise objections in respect of the wrongful recording of their date of birth, the petitioner had applied to the respondents on 20.10.2011 and 21.01.2014 for correction of his date of birth in the service records. According to the petitioner, it is clear from the copies of the Aadhaar Card, the driving license and the school leaving

certificate that are annexed to the petition that the date of birth of the petitioner is not 01.07.1956 but, the same is 01.07.1963. The petitioner has prayed that the impugned order rejecting his application should be quashed and set aside and in stead the petitioner should be directed to be examined by the Area Age Assessment Committee and the Apex Medical Board at the headquarters of the respondents.

The respondents have denied the claim of the petitioner by filing an affidavit-in-reply. It is stated in the affidavit-in-reply that at the time of his entry in service, the petitioner had not produced the birth certificate and had informed the authorities that he was then 24 years of age. It is submitted that on the basis of the statement made by the petitioner, his date of birth was recorded as 01.07.1956 at the time of his entry in service in the year 1980. It is stated that the petitioner never applied for a change in his date of birth till the year 2013. It is stated that the petitioner has signed Form B, in which his date of birth has been clearly recorded as 01.07.1956, in the year 1980 and even thereafter. It is stated that in view of Implementation Instruction No.76, in case of existing employees, the date of birth could be changed on the basis of the matriculation certificate or higher secondary school certificate issued by the recognized universities or boards provided the said certificates are issued by the universities/boards/institutions prior to the date of appointment of the employees. It is stated that in the instant case, the certified copies of the certificates are issued in favour of the petitioner by the school/institution in the year 2014 and, hence, the petitioner cannot seek the benefit of Implementation Instruction No.76.

On hearing the learned counsel for the respondents and on a perusal of the documents annexed to the petition and the affidavit-in-reply, it appears that the age row in the case of the petitioner cannot be decided in exercise of the writ jurisdiction. Admittedly, the age of the petitioner was recorded in the records of

the respondents in the year 1980 as 01.07.1956 and the said entry is continued till the petitioner raised an objection for the first time in the year 2013 in respect of the alleged wrongful entry. On 05.11.2013 (Annexure-A3), the petitioner sought the correction of his date of birth. The respondents have rejected the application as the petitioner had signed Form B in the year 1980, in which the date of birth of the petitioner was recorded as 01.07.1956. We cannot consider the certified copies of the documents annexed by the petitioner to the instant petition to hold that the date of birth of the petitioner is not 01.07.1956 and is 01.07.1963, in exercise of the writ jurisdiction. The issue involved in this case could be decided only after an opportunity is granted to the parties to tender evidence both, oral and documentary. Hence, we decline to entertain the writ petition for a direction to the respondents to send the case of the petitioner to the Medical Board or any other committee. The petitioner may avail an appropriate remedy, if so advised.

In the result, the writ petition fails and is dismissed with no order as to costs.

The points raised in the petition are, however, kept open.

JUDGE

JUDGE