

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 325 OF 2015

(The State of Maharashtra thr. its Secretary, Water Resource Department & Ors. vs. Prabhakar s/o
Uttamrao Rindhe & Anr.)

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

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
S.B. SHUKRE, JJ.
MARCH 16, 2015.**

Heard Shri Fulzele, learned AGP for the
petitioners – employer – State Government.

The challenge is to the judgment dated
20.01.2014 delivered by the Maharashtra Administrative
Tribunal (MAT) in Original Application No. 276 of 2013.
The MAT has declared that date of birth of the
respondent – employee as recorded initially in his Service
book as 04.02.1956 is the correct date of birth. With this
declaration, O.A. is disposed of.

The learned AGP submits that correction was
done after verifying date of birth as recorded in School
Leaving Certificate and immediately when employee
joined employment.

In view of this contention, we have perused
the records. The respondent joined the employment on
04.08.1976 as Junior Engineer. The observations
recorded by MAT shows that originally his date of birth

was 04.02.1956 and it was changed later on to 24.06.1955. The MAT has also found that in service book 04.02.1956 was recorded as date of birth in figures as also in words. Below it, another entry which mentioned the date of birth as 24.07.1955 appear and it was taken at some other time. It also noted that there was endorsement by the side of said date of birth which read "*date of birth is verified from original certificate of school and found correct*". There was a stamp of Executive Engineer below it without any signature. The MAT has also noted that in seniority list as circulated on 15.04.2006, name of the respondent appear at Sr. No. 4650 and his date of birth was mentioned as 04.02.1956. In this situation, it found that the prayer made by the respondent for correcting the date of birth as recorded was not belated.

The learned AGP is not in a position to point out who decided to enter the date 24.07.1955 as date of birth or the date on which that decision was taken. Obviously, the decision was not taken immediately in 1976 or shortly thereafter.

Rule 38 mentioned supra prescribes elaborate procedure in this respect and as per rule 38(2)(f), no alterations in recorded date of birth is allowed unless it was shown that it was due to want of care on the part of some person other than the employee or is an obvious clerical error. Here, the possibility of clerical error is also ruled out. The age of superannuation for the respondent

was 58 years. He reached that age on 28.02.2014. In this situation, if the MAT had granted any interim relief the respondent had worked till said date and superannuated. If there was no interim order, apart from declaration, MAT has not given any other direction.

We, therefore, find the challenge misconceived. Hence the petition is rejected. No order as to costs.

JUDGE

JUDGE

*GS.