

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.7410 OF 2014

Sau.Bhumika W/o Bhaulal Tembhurnikar(Maiden name Ku.Ratnamala Tarachand Nandeshwar)

-vs-

Zilla Parishad, Bhandara and others

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

Court's or Judge's Orders.

Mr.V.G.Deshmukh, counsel for the petitioner.
Mr.A.Y.Kapgate, counsel for the respondent Nos.1 to 3.
Mr.N.S.Rao, AGP for the respondent No.4.

CORAM : SMT. VASANTI A. NAIK &
A.M.BADAR, JJ.

DATE : 23.03.2015.

Heard.

The petitioner claims that she was born on 03/12/1957 and that her date of birth was wrongly recorded in the service book as 03/12/1956. It is stated that as per the wrongly recorded date of birth in the service book, the retirement of the petitioner is due in December, 2014. It is stated that though the petitioner had made applications for correction of her date of birth in the year 1985 i.e. within a period of five years from the date of her appointment, the respondents did not consider the application and correct the date of birth, despite reminders.

We find on a perusal of the impugned order that the respondent has rejected the prayer made by the petitioner for correction of the date of birth as the petitioner had not filed an application for correction of the date of birth within a period of five years. Even assuming that the petitioner had made an application for the correction of the date of birth in the year 1985 i.e. within a period of five years

from the date of her appointment, it was necessary for the petitioner to approach this Court within a reasonable time, if the representations were not decided. The instant petition is, however, filed on 31/12/2014, when the petitioner actually stood superannuated as per the date of birth recorded in the service book. It is also necessary to note that in view of Rule 38 of the Maharashtra Civil Services (General Conditions of Service) Rules, 1981, an application of change of date of birth should be made within a period of five years from the date of entry in the Government service and it is also stated in the said Rule that when once an entry of age or date of birth has been made in the service book, no alteration of the entry whatsoever should be allowed, unless it is found that the entry was due to want of care on the part of some person other than the individual in question or is an obvious clerical error. The applications annexed by the petitioner to the instant petition do not make a reference to want of care or negligence on the part of the respondent-employer or to an obvious clerical error. In this background, it would not be proper for this Court to interfere with the order of the respondents, declining to correct the date of birth of the petitioner when the petitioner was on the verge of retirement and only a few days of service of the petitioner were left. The judgment reported in 2000 III CLR 125 (Sitaram K. Jawale v. MHADA and Ors.) cannot be made applicable to the facts of this case.

Since there is no merit in the writ petition, the petition fails and is dismissed with no order as to costs.

JUDGE

JUDGE