

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937

WA.No. 1615 of 2014 () IN WP(C).22884/2013

AGAINST THE ORDER/JUDGMENT IN WP(C) 22884/2013 of HIGH COURT OF
KERALA DATED 29-11-2013

APPELLANT(S)/PETITIONER:

C.M.ABDUL KAREEM AGED 56 YEARS
SON OF KUTTI MOOSA MUHAMMED, CHOOLACHIRAYIL HOUSE
PERUMBALKAM, CHERTHALA TALUK, ALAPPUZHA DISTRICT
PIN: 688 570.

BY ADVS.SRI.A.M.NASEER
SRI.M.K.CHANDRA MOHANDAS

RESPONDENT(S)/RESPONDENTS:

1. FOOD CORPORATION OF INDIA
REGIONAL OFFICE, KESAVADASAPURAM, PATTOM P.O.
TRIVANDRUM DISTRICT, PIN: 695 004
REPRESENTED BY ITS GENERAL MANAGER.

2. THE DISTRICT MANAGER,
FOOD CORPORATION OF INDIA, DISTRICT OFFICE
ERNAKULAM DISTRICT, PIN: 682 011.

3. G.H.S SCHOOL,
PERUMPALAM, ALAPPUZHA DISTRICT, PIN: 688 570
REPRESENTED BY ITS HEADMISTRESS.

R1 & 2 BY ADV. SRI.VARGHESE M.EASO, SC,
FOOD CORPORATION OF INDIA

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
30-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**ASHOK BHUSHAN, CJ
&
A.M.SHAFFIQUE, J**

W.A.No. 1615 of 2014

Dated this the 30th June, 2015

JUDGMENT

Ashok Bushan, CJ.

Heard learned counsel for the appellant and the learned counsel appearing for the Corporation.

2. This Writ Appeal has been filed against the judgment dated 29.11.2013 in W.P(C).No.22884 of 2013 by which judgment the Writ Petition has been dismissed refusing the prayer of the petitioner for issuing a writ of mandamus commanding respondents 1 and 2 to record the entry of date of birth in the service records of the petitioner as 10.10.1956 as recorded in Exhibit P1 school admission register.

3. The appellant, a headload worker entered into the service of the respondent Corporation and his date of birth recorded in the relevant records was 1.7.1955. In the CPF

nomination form submitted during the year 1998, the date of birth of the petitioner was mentioned as 01.07.1955. Exhibit R2(f) was a nomination Form to the CPF submitted by the petitioner during the year 1998 and an identity card was issued to the petitioner on 8.5.2006, wherein the date of birth of the petitioner was mentioned as 23.12.1960. The petitioner submitted a representation claiming that his date of birth mentioned in the identity card is correct. He submitted a medical certificate in support of the said date of birth. The petitioner subsequently also submitted a school certificate obtained on 27.7.2013 showing his date of birth as 10.10.1956. On 28.12.2010 the petitioner was informed that in the nomination paper submitted by the petitioner, his date of birth was 1.7.1955. It was mentioned that the notarized affidavit submitted by the petitioner was not sufficient for accepting the claim of the petitioner. The petitioner's request to accept the date of birth as 10.10.1956 was not accepted and he was communicated the said decision by

the Corporation. The petitioner filed the Writ Petition challenging Exhibits P7 and P8, which has been dismissed, against which the appellant has come up with the Writ Appeal.

4. Learned counsel for the appellant submits that the school certificate produced by the appellant ought to have been accepted. He submits that the date of birth, which was recorded in the CPF nomination and other records was not on the basis of any document submitted by the petitioner. He submits that the appellant is only a headload worker and at best he will get one year more time to work. Hence the Corporation ought to have accepted the said prayer.

5. Learned counsel for the Corporation, refuting the submission of learned counsel for the appellant, contends that there was no error in the date of birth, which was maintained in the records as 1.7.1955. He submits that the identity card issued in the year 2006 was only on a mistake and the petitioner was immediately thereafter

given an opportunity to submit documents to prove his date of birth and the petitioner only produced a notarized affidavit and a medical certificate. It is further submitted that a statement has already been submitted by learned counsel for the Corporation in the Writ Appeal, wherein it has been mentioned that the appellant himself admitted that he has attained the age of 58 years on 30.6.2013 and submitted the prescribed application (Form.10-D) for pension under EPS' 95.

6. We have considered the submissions of the learned counsel for the parties and perused the records.

7. In the nomination form and other documents maintained with the Corporation the date of birth is shown as 1.7.1955. It was only under a mistake that the identity card was issued showing the date of birth of the petitioner as 23.12.1960. On the basis of such mistake the petitioner staked the claim that his date of birth be accepted as 23.12.1960. He filed a notarized affidavit and a doctor's certificate to support his claim. The said claim was

rejected and only thereafter in the year 2013 the petitioner came with the copy of the school certificate showing his date of birth as 10.10.1956. The fact that the petitioner did not come with a consistent case regarding his date of birth and his date of birth recorded in the nomination form and CPF nomination papers being 1.7.1955, we have no reason to disbelieve the case of the Corporation that the date of birth recorded in the records maintained with the Corporation was correct. More so, the school certificate which was produced by the petitioner in 2013 was not produced when he was asked to substantiate his date of birth as claimed. The shifting stand taken by the petitioner was that his date of birth was 23.12.1960 and thereafter his date of birth shown in the CPF nomination itself indicates the weakness of the case. It is also true that correction of date of birth can be permitted by the employee within a reasonable time. But for every correction of date of birth, there has to be a valid reason and ground.

We do not find any error in the judgment of the learned Single Judge, which may warrant interference by this Court. No error has been made by the Corporation in refusing the correction of date of birth of the petitioner. The Writ Appeal is dismissed.

**ASHOK BHUSHAN
CHIEF JUSTICE**

**A.M.SHAFFIQUE
JUDGE**

vgs