

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

WP(C).No. 28613 of 2007 (F)

PETITIONER :

**B. VIJAYAKUMAR,
PERMANENT LABOURER,
KERALA AGRICULTURAL COLLEGE,
INSTRUCTIONAL FARM, VELLAYANI P.O.,
THIRUVANANTHAPURAM DISTRICT.**

**BY ADVS.SRI.VELLAYANI SUNDARARAJU
SMT.P.MEENAKUMARI**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO DEPARTMENT OF
HIGHER EDUCATION, THIRUVANANTHAPURAM DISTRICT.**
- 2. THE REGISTRAR,
AGRICULTURAL UNIVERSITY, MANNUTHI, THRISSUR.**
- 3. ASSOCIATE PROFESSOR AND HEAD
AGRICULTURAL COLLEGE & INSTRUCTIONAL FARM,
VELLAYANI P.O., THIRUVANANTHAPURAM DISTRICT.**
- 4. THE FARM MANAGER,
AGRICULTURAL COLLEGE INSTRUCTIONAL FARM,
VELLAYANI P.O., THIRUVANANTHAPURAM DISTRICT.**

**R1 BY SR GOVERNMENT PLEADER SRI.P.V.ELIAS
R2 TO R4 BY ADV. SRI.BABU JOSEPH KURUVATHAZHA,SC,KERALA
SRI.RENJITH THAMPAN,SC,KERALA AGRL.UTY**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20-01-2015, ALONG WITH WPC.NO. 18046/2008 AND WPC.NO. 21482/2008,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

sts

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE ORDER NO.F.3/740/2000 DATED 01/4/2000 OF 3RD RESPONDENT**
- P2 COPY OF THE STATEMENT NO.1 OF ADMINISTRATIVE OFFICER DATED NIL**
- P3 COPY OF THE ADMISSION REGISTER EXTRACT OF BNV HIGH SCHOOL, THIRUVALLAM DATED 19/4/1980**
- P4 COPY OF THE ABSTRACT OF ADMISSION REGISTER OF HOLY CROSS LPS, PALAPPUR DATED 11/9/2007**
- P5 COPY OF THE APPLICATION DATED 5/9/2007 OF PETITIONER TO 3RD RESPONDENT**
- P6 COPY OF THE REPRESENTATION OF PETITIONER TO 1ST & 2ND RESPONDENTS**
- P7 COPY OF THE DEATH CERTIFICATE ISSUED BY COMPETENT AUTHORITY**
- P8 COPY OF THE REPRESENTATION DATED 15/5/1982 OF PETITIONER TO THE 3RD RESPONDENT**
- P9 COPY OF THE PUBLISHED BY 3RD RESPONDENT IN OCTOBER 2007 FOR SUPERANNUATING 108 PERSONS FROM SERVICE ON 30/6/2008**
- P10 COPY OF THE BASIC PENSION SANCTIONED TO THE MOTHER OF PETITIONER FROM 01/7/2007 AS PER ORDER DATED 14/8/2007**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

C.K. ABDUL REHIM, J.

**W.P.(c) No. 28613 OF 2007,
W.P.(c) Nos. 18046 & 21482 OF 2008**

DATED THIS THE 20th DAY OF JANUARY, 2015.

J U D G M E N T

Since the petitioner is common in all the 3 writ petitions and since the issue involved in all the cases relate to his service in the Kerala Agricultural University, all the 3 cases were considered together and disposed of through this common judgment.

2. WP(C)28613/2007 (hereinafter referred to as the 'first case' for short) is filed seeking direction against the University for entering the actual date of birth of the petitioner in the service records, based on Exts.P3 and P4 extracts of the 'Admission Register' issued from two schools wherein he had studied during the years 1969 and 1974. The date of birth of the petitioner contained in the Exts.P3 and P4 is 24/05/1963. It is alleged that the date of birth entered in the service records is based on a fake Medical Certificate secured by the authorities of the University from

an ineligible Doctor. Therefore the petitioner seeks for a direction commanding the University and its Officers to conduct a proper enquiry with respect to entry of the date of birth based on the fake Medical Certificate and to correct the entry based on Exts.P3 and P4, as requested in Ext.P6 representation.

3. Facts revealed are that; the petitioner was regularised in the service of the University with effect from 01/04/2000 on the basis that he was working as a daily waged labourer in the 'Agricultural College Instructional Farm', Vellayani since the year 1982 onwards. Ext.P1 would indicate that the University had taken a decision to regularise 54 casual employees working in the said Farm with effect from 01/04/2000. In Ext.P1 it is stated that those who were regularised has to retire from service on attaining the age of 55 years. Based on Ext.P1 the pay/emoluments of the petitioner was fixed by virtue of Ext.P2 statement. It is averred in the writ petition that, on 31/08/2007 the petitioner came to know from his co-

workers that he would retire from service in the month of June 2008. Therefore Ext.P5 request was submitted before the 3rd respondent for permitting verification of his service records. Contents of the 'Service Book' was read out to the petitioner at the concerned section and he came to know that a Medical Certificate issued by a Doctor was attached in the Service Book, in which endorsement regarding his date of birth is noted as 01/07/1953. According to the petitioner, he had never obtained or produced any Medical Certificate at the time of his regularisation. It is stated that Ext.P3 School Admission Register was produced at that time in order to prove his date of birth. It is further alleged that the Doctor who had issued the Medical Certificate is working in a Government Hospital functioning within the campus of the University and he is the husband of a lady Officer working in the Agricultural College. Allegation is that innumerable number of false Medical Certificates were obtained from the said Doctor with respect to labourers who couldn't produce School Certificates or Horoscopes to

prove their date of births. According to the petitioner, all such irregularities were perpetrated in the University with connivance of respondents 3 and 4. When the petitioner came to know about the mistake, he submitted Ext.P6 representation seeking correction of his date of birth in accordance with the School Admission Register. Since the request was not considered WP(C) 28613/2007 is filed.

4. University had filed a statement in the first case contending that one Sri. K Bhaskaran, father of the petitioner, was a casual labourer in the 'Instructional Farm' and that the petitioner had suppressed death of Sri.K.Bhaskaran from the authorities of the Farm and the name of Sri.K.Bhaskaran was not deleted from the list of casual labourers. It is alleged that after death of his father, the petitioner had impersonated as Bhaskaran and attended duty of casual labourer in the Farm. While continuing as such the petitioner had produced a Gazette Notification, dated 04/08/1987 to the effect that, the petitioner is a permanent labourer in the 'Instructional

Farm' and Sri.K.Bhaskaran and the petitioner are one and same person. Based on the Gazette Notification the petitioner made a request in the year 1992 to include his name in the place of Sri.K.Bhaskaran in the seniority list and accordingly the seniority list was published with the name of the petitioner. The Petitioner was made a permanent labourer only on the basis of such corrected seniority. Contention in the statement is as follows;

“ It is pertinent to note that the date of birth shown is on 01/07/1953 based on medical certificate of his father produced at the time of his initial appointment as casual labourer”

It is further mentioned that, when the above said fact was revealed the University had filed a complaint before the Vigilance and Anti Corruption Bureau of the State Police and in a report submitted by the Superintendent of Vigilance and Anti Corruption Bureau it was recommended for registering a criminal case against the petitioner under Section 490 and 420 of IPC. But subsequently the Director of Vigilance had opined that no criminal case can be registered against the petitioner and disciplinary

proceedings by the University alone can be initiated. Hence immediate disciplinary action will be taken against the petitioner.

5. Refuting all the allegations, the petitioner had filed a detailed reply affidavit. It is contended that his father was never engaged as casual labourer in the 'Instructional Farm'. Ext.P7 Death Certificate of the petitioner's father was produced to show that he died on 20/08/1970. It is specifically contended that, if the petitioner's father was enrolled as casual labourer in the Farm there would have been some records available to that effect or to the effect that remuneration was paid to him. But there is absolutely no evidence to show that the petitioner's father was a casual labourer under the 3rd respondent. According to the petitioner, he was enrolled as a casual labourer on 10/04/1982. But in May 1982 it came to his notice that his name was wrongly mentioned in the records as K.Bhaskaran, instead of B.Vijayakumar. Even though the petitioner submitted Ext.P8 request to correct the name, it

was not allowed stating that the details were already send to the 2nd respondent. Under such circumstances, on the advice of certain Trade Union leaders and other staff members, the petitioner got a Gazette Notification published on 04/08/1987 to the effect that Sri.K.Bhaskaran and B. Vijayakumar are one and the same person. It is emphatically denied that, the date of birth shown as 01/07/1953 is based on the Medical Certificate of his father. According to the petitioner, when he joined as casual labourer on 10/04/1982 he was never asked to produce any Medical Certificate or other documents to prove his date of birth. Along with the reply affidavit the petitioner had also produced Ext.P9, which is a Notification issued by the 3rd respondent publishing the dates of retirement of 108 workers. The petitioner's name is included as Sl.No.59 therein. His date of retirement is noted as 30/06/2008. It is specifically pointed out that, date of retirement of about 100 workers noted in the said list is one and the same date ie: 30/06/2008.

6. WP(C)18046/2008 (hereinafter referred to as the 'second case' for short) was filed challenging Ext.P9 list, mentioned above, to the extent it intimated that the petitioner would retire on 30/06/2008. Inter alia, the petitioner sought for a declaration that his date of birth is 24/05/1963, as contained in the School Admission Registers, and that his date of retirement will be 23/05/2018. (now it will be 23/05/2019 since the age is enhanced to 56 years). The petitioner had also sought for a direction commanding an enquiry into the alleged malpractices committed in securing fake and illegal Medical Certificates to the extent of effecting retirement of a large number of labourers to their disadvantage. According to the petitioner, he was having 10 more years service left for attaining the age of 55 years. He had produced Exts.P6 and P7 to show that his mother Smt. Bharathi was also regularised as a permanent labourer in the Farm with effect from 01/07/2000 and she had attained the age of

superannuation only on 30/06/2007. Therefore it is contended that the age of retirement of the petitioner mentioned as 30/06/2008 is not true and correct.

7. WP(C)21482/2008 (hereinafter referred to as the 'third case' for short) was filed challenging Ext.P15 order issued by the Registrar of the University dismissing the petitioner from service, based on Ext.P12 enquiry report, pursuant to a disciplinary action initiated against him, presumably based on the Vigilance Report based on the allegation of impersonation. It is evident that during pendency of the first writ petition the petitioner was suspended from service in contemplation of a disciplinary action. An enquiry was ordered against him and the Officer authorised to conduct the enquiry had issued Ext.P7 notice requiring the petitioner to be present before him along with documents if any to prove his innocence. Accordingly the petitioner appeared before the said Officer and submitted Ext.P8 written affidavit. But the Enquiry Officer had issued a questionnaire and asked the petitioner

to answer the questions contained therein. Ext.P9 is the statement thus recorded. Similar statements were also recorded from the mother of the petitioner as evidenced from Ext.P10. Subsequently, based on Ext.P12 report, the 3rd respondent had issued Ext.P11 show cause notice to the petitioner requiring him to submit explanations if any against the punishment proposed. The petitioner preferred Ext.P13 explanations. But Ext.P15 order was issued removing him from the service, finding that the petitioner had impersonated Sri. K.Bhaskaran who was working as casual labourer in the University between 1971 and 1974, and thereby worked in the University as a casual labourer and continued as casual labourer on the basis of the Gazette Notification and further obtained confirmation as a permanent labourer on that basis. Therefore it is alleged that the petitioner had cheated the University and the charges levelled against him stands proved based on the enquiry.

8. The petitioner contended that the enquiry was conducted without issuing any 'Memo of Charges' or any 'Statement of Allegations'. It is contended that the enquiry was conducted in a totally illegal manner, without following any principles of natural justice and without affording any opportunity to the petitioner to defend his case. It is alleged that he was not given opportunity to cross-examine any witness whose statements were recorded by the Enquiry officer. It is further pointed out that the enquiry was conducted based on totally vague and wild allegation and no specific charges was framed against the petitioner, nor he was called upon to answer any such specific charges. It is specifically contended that disciplinary proceedings was conducted in total violation of all relevant statutory provisions. It is also contended that disciplinary action was initiated based on a complaint submitted by one Sri. Sasi, Kunthalamvila veedu and the said person was keeping enmity to the petitioner.

9. The respondents had filed a statement in the third writ petition contending that records available in the Farm does not indicate enrollment of any casual labourer during the year 1982, and the petitioner could not explain the circumstances under which he alone was enrolled on 10-04-1982. Further it is contended that 10-04-1982 was a second Saturday (holiday) and there was no possibility to enroll the petitioner as a casual worker on that day. Stand taken by the petitioner that his father Sri. A. Bhaskaran was a Wood Cutter and he died on 20-08-1970 was denied. It is mentioned that the Director of Vigilance had reported that the petitioner had suppressed factual information about the death of his father and about the Admission Register and had produced Medical Certificate in proof of his age. Hence it was recommended that departmental action should be initiated against the petitioner. Therefore a Professor of the 'College of Agriculture' was nominated to conduct departmental enquiry and to submit report. It is stated that the Medical certificate produced by the petitioner at the

time of permanency was pasted in the Service Book and the age of the petitioner mentioned in the Medical certificate is 46 years as on 23-02-2000. Therefore the date of birth was noted as 01-07-1953, in accordance with Note 4 under Rule 60 of Part-I K.S.R. Therefore the petitioner had to retire on 30-06-2008 on completion of 55 years. According to the respondent, in both the enquiry conducted by the Vigilance and the department it was proved that the petitioner had attended duty as casual labourer by impersonating his father Sri. Bhaskaran, who died prior to 1974, without informing about his father's death to the University. It is stated that he had further managed to include his name in the select list by producing Gazette notification dated 04-08-1987. According to the respondents he suppressed the fact about the school education and therefore he had committed criminal offence by cheating the University authorities by impersonation.

10. Two major issues evolve for consideration in these writ petitions. One is regarding validity of the punishment

of removal from service imposed, which is challenged in the third writ petition. Second is regarding correction of date of birth in the service records, for which the petitioner had sought directions in the first and second writ petitions. This court is proceeding to decide the issue of sustainability of the punishment at first.

11. It is an undisputed fact that the petitioner was regularised in service with effect from 01-04-2000 along with 54 other persons who were working as casual labourers in the Instructional Farm. There is considerable dispute with respect to entry of the petitioner as a casual labourer. According to the petitioner he was enrolled as a casual labourer in the Farm on 10-04-1982. But according to the University no new casual workers were enrolled after 1971 and nobody was enrolled as a casual worker on 10-04-1982, which was a second Saturday and holiday for the University. The Gazette Notification dated 04-08-1987 is to the effect of declaring that the petitioner, who is the holder of the School Admission Register dated 19-04-1980 (Ext.P3

in the first writ petition), is also known as K. Bhaskarn, whose name is included in the Attendance Card of the Agricultural University, and that both of them are one and the same person. The notification further says that in future the person will be known only as B. Vijayakumar and the change will take effect from the date of the notification. From the order dated 01-04-2000 whereby the petitioner was regularised it is evident that the University had accepted the petitioner as a casual labourer, who had worked in the Instructional Farm. Neither the pleadings nor the records produced by the respondent University would indicate as to how the petitioner's name was included in the list of casual labourers or as to when he was admitted as a casual labourer. It is highly surprising that, despite such a crucial controversy emerged with respect to regularisation of the petitioner, none of the authorities have taken any efforts to verify any of the records relating to engagement of casual labourers in the Farm prior to the year 2000. The respondents are not coming up with any specific or

consistent plea with respect to the records through which the petitioner was engaged as a casual labourer. Despite making such a grave allegation that the petitioner had impersonated his father for getting enrolled as a casual labourer, it is not disputed that the petitioner was regularised based on his casual service and his pay and allowances were fixed from 01-04-2000 onwards. It is for the first time in the year 2007 when the petitioner approached this court seeking correction of date of birth in the service records, the University is coming up with an allegation of impersonation committed. But the respondents have miserably failed to produce any documents to show that the petitioner's father Sri. K. Bhaskaran was enrolled as a casual labourer in the Farm. Even the allegation itself is very vague that, Sri. K. Bhaskaran was enrolled as casual labourer sometime between 1970 and 1974. With respect to the impugned disciplinary action, it is to be noticed that the petitioner was suspended by virtue of a proceedings issued on 30-10-2007. Exhibit P6 is an explanation submitted by

the petitioner when he was served with the order of suspension. Thereafter the petitioner was served only with Ext.P7 notice issued by the officer who was entrusted to conduct an enquiry. Through Ext.P7 the petitioner was requested to appear before the Enquiry Officer in order to prove his innocence. But the enquiry was not initiated based on any Memo of Charges or Statement of Allegations. No enquiry was conducted based on any specific charges. On the other hand a general enquiry was conducted with respect to the allegations contained in the order of suspension. However, the petitioner had submitted a detailed affidavit refuting the allegations contained in the order of suspension. It is evident from the report that the petitioner and his mother were questioned by the Officer. The document produced would indicate that a questionnaire was prepared and answers were obtained from both the said persons. The report would further indicate that Sri. G. Sasi, Kunthalamvila veedu had submitted a complaint to the University alleging that the petitioner had impersonated his

father for getting employment in the Farm. There is no indication that the petitioner was served with a copy of the said complaint or that any explanation was sought from him with respect to the allegations contained in the said complaint. On the other hand the report would indicate that a preliminary enquiry was conducted by the Head of the 'Instructional Farm' who in turn requested the University to conduct a detailed enquiry in order to probe into genuineness of the allegations. The report would also indicate that the Vigilance and Anti-Corruption Bureau had taken up the matter and a report was submitted to the University after conducting a detailed enquiry. It is on the basis of such report the petitioner was placed under suspension and that a further enquiry was ordered. The enquiry report would indicate that statement of 9 persons were recorded by the Enquiry officer and details were collected from the office of the 'Instructional Farm'. The Enquiry Officer had also perused report of the Vigilance authorities. Nothing is indicated in the enquiry report to

show that any witness were examined in the presence of the petitioner or that the petitioner was given any opportunity to cross examine the witness. There is nothing to indicate that the petitioner was put to notice of the details or materials and documents relied upon for the purpose of enquiry. There is nothing to show that the petitioner was neither permitted to peruse such documents nor any copy was served on him. Eventhough it is stated in the enquiry report that details were collected from the office of the Farm, nothing is indicated with respect to perusal of any such records pertaining to enrollment of the petitioner or his father as casual labourers, or pertaining to regularisation of service of the petitioner. The petitioner had produced Death Certificate of his father in which the date of death noticed as 20-08-1970. But the Enquiry officer noticed that seniority of casual labourers prepared in the year 1976 contained name of Sri. K. Bhaskarn. In the report of the Vigilance and Anti-Corruption Bureau it is mentioned that Sri. Bhaskaran died in an accident in between 1971

and 1974. Without any basis the Enquiry Officer had raised a doubt about genuineness of the Death Certificate and the extract of School Admission Registers produced by the petitioner, despite the fact that it was proved in the Vigilance enquiry that the petitioner had studied at the Holy Cross L.P. School from 07-06-1966. Conclusions contained in the report of enquiry to the effect that the petitioner had impersonated his father for securing casual employment, is mainly based on the report of the vigilance enquiry and based on an observation that the petitioner could not explain the circumstances under which he was enrolled as casual labourer during 1982 and got regularised on the basis that he had worked from 1971 onwards, and based on the fact that he had caused the Gazette Notification in question.

12. It is true that the disciplinary authority had issued a show cause notice as evidenced from Ext.P11 calling upon the petitioner to submit explanations against the punishment proposed. The petitioner had submitted a

detailed explanation as per Ext.P13. But observing that the petitioner had failed to submit any proper explanation and further observing that the charges levelled against him stands proved beyond suspicion, he was terminated from service. As observed above, the disciplinary action was initiated without even issuing any Memo of Charges or Statement of Allegations. No enquiry was conducted following any of the procedure contemplated under the Kerala Civil Services (Classification, Control & Appeal) Rules which is admittedly applicable with respect to employees of the University. The Enquiry officer had placed heavy reliance on the report alleged to have been submitted by the Vigilance and Anti-Corruption Bureau. But there is nothing to indicate that the said report was made use of in the Enquiry with notice and opportunity afforded to the petitioner. Further the said report is neither extracted nor attached along with the Enquiry report. On an overall consideration of the circumstances with respect to conduct of enquiry, this court is fully convinced that the disciplinary

proceedings initiated and the enquiry conducted are totally vitiated, and hence the punishment imposed could not be sustained at all. Therefore this court is inclined to quash the punishment imposed, despite the fact that the petitioner had not availed any statutory remedy of appeal against the order of punishment imposed.

13. With respect to the question regarding correction of date of birth in the service records it is to be noticed that the contentions raised by the respondents in the first writ petition is that the date of birth was entered based on a Medical Certificate of the petitioner's father produced at the time of his initial appointment as a casual labourer. On the contrary in the statement filed by the respondents in the third writ petition it is mentioned that the Medical Certificate produced by the petitioner at the time of permanency was pasted in the Service Book. In order to ascertain veracity of the contradictory allegations, this court directed production of Service Book of the petitioner. Standing Counsel appearing for the respondent University

had made available the Service Book for perusal of this court. Evidently, the Service Book was opened only at the time when the petitioner was regularised, in the year 2000. It is noticed that a 'Physical Fitness Certificate' issued by a Civil Surgeon working in the Primary Health Centre, Vallayani was pasted inside outer cover of the Service Book. The certificate is to the effect that the petitioner, who is a candidate for employment in the Instructional Farm in the post of permanent labourer, is not suffering from any disease bodily or affliction. The certificate further say that the age of the petitioner according to his own statement and by appearance is 46 years. The Service Book further contains an entry endorsing the date of birth entered as 01-07-1953. The remarks noted therein would indicate that, as per Medical certificate dated 29-03-2000 the date of birth is recorded in accordance with Note 4 under Rule 60 of Part I KSR. Specific case of the petitioner is that he had produced Ext.P3 (in the first writ petition) which is the extract of the School Admission Register at the time when

he was regularised and the date of birth noticed therein is 24-05-1963. According to the petitioner the Medical certificate contained in the Service Book was never obtained or produced by him and the same was procured only by the officials of the Instructional Farm. The petitioner had raised an allegation that the authorities have procured such false Medical Certificates from the very same Doctor with respect to so many candidates and the date of birth of those persons were recorded as 01-07-1953 in the Service Book, at the time when regularisation of casual employees were effected. In support of such contention the petitioner relies on the notification issued by the Associate Professor and Head of the Instructional Farm with respect to date of retirement of 108 of permanent workers (Ext.P9 in the first writ petition). It is true and correct that, except few employees, the date of retirement of majority of the workers included in Ext.P9 (with respect to about 100 workers) is the same date as 30-06-2008. The above aspect would fortify the contention of the petitioner that the

authorities of the Farm had obtained numerous Medical certificates with respect to casual employees who were regularised in the service and the date of birth of about 100 workers were noticed as 01-07-1953 invoking Note 4 under Rule 60 of Part I KSR. Hence it is evident that the date of birth of the petitioner was not endorsed correctly and properly in the service records.

14. It is pertinent to note that the respondents have conceded that the petitioner's name was included in the select list of casual labourers on the basis of the Gazette notification produced by the petitioner, which is dated 04-08-1987. It was pertinent to note that, in the Gazette notification itself it is mentioned that the petitioner is the holder of the extract of School Admission Register No.7159 dated 19-04-1980. Evidently Ext.P3 is the extract of School Admission Register mentioned in the notification. Therefore it is conclusively proved that the petitioner was holding Ext.P3 extract of School Admission Register even at the time when Ext.P4 Gazette notification was published on 04-

08-1987. Therefore it is to be presumed that the petitioner could have produced the School Admission Register if he was requested for proof of date of birth at any stage in the process of regularisation. Such a procedure is not seen adopted by the respondents. It corroborates the allegation that the Medical Certificate was obtained behind back of the petitioner, as done in the case of about 100 employees who were regularised. Further it is pertinent to note that, during the enquiry conducted it was revealed that the mother of the petitioner, who was a permanent worker in the service of the respondent had retired from service only on 30-06-2007. In such case there is absolutely no possibility that the son will attain the age of 55 years on the next year itself. Therefore in all probability the date of birth of the petitioner is truly and correctly endorsed in the School Registers, which are produced as Exts.P3 & P4 in the first writ petition.

15. Question remains as to whether the petitioner was within his knowledge about entry of the date of birth in his

service records, from the year 2000 till he made the first request for correction in the year 2007. Contention by learned Standing counsel for the respondents is that the petitioner had put his signature in the Service Book and he was aware about the date of superannuation noted therein. It is true that signature of the petitioner is endorsed in page 3 of Service Book. But there is nothing to indicate as to when the Service Book was opened and as to when the signature of the petitioner was obtained. Therefore the fact that the Service Book contains signature of the petitioner cannot be taken as an inference to hold that the petitioner was aware about the incorrect entry of date of birth contained in the Service Book. Hence the petitioner cannot be attributed with any laches on his part in not seeking correction of date of birth at any earlier point of time.

16. As observed above, this court is convinced that the date of birth of the petitioner was endorsed in the service records based on the Medical Certificate procured by the authorities of the Farm, as done in the case of so may

others by invoking Rule 60 of Part I KSR, despite availability of authenticated and specific records for proving the date of birth. Therefore this court is of the considered opinion that the request of the petitioner for correction of the date of birth in the service records need to be allowed.

17. Result of the above discussions is that, the impugned order of termination from service imposed against the petitioner is legally sustainable and is quashed. It is declared that the petitioner is entitled to get his date of birth corrected in the service records as 24-05-1963, and that he will attain superannuation only based on the above said date of birth. Therefore Ext.P15 order impugned in W.P (c) No.21482/2008 is hereby quashed. The respondents are directed to reinstate the petitioner in the service as a permanent labourer in the Instructional Farm, forthwith. The respondents are directed to take appropriate decision with respect to regularisation of the broken period of service, in accordance with law. W.P (c) Nos.28613/2007 and 18046/2008 are allowed to the extent of declaring that

the date of birth of the petitioner is 24-05-1953 and directing the respondents to effect necessary correction in the service records of the petitioner.

Sd/-
C.K. ABDUL REHIM
JUDGE

MJL/AMG

True copy

P.A. to Judge

The word “sustainable” occurring in the 3rd line in paragraph 17 of the common judgment in W.P (c) Nos.28613/2007, 18046/2008 & 21482/2008 is corrected and substituted as “unsustainable”.

The date “24-05-1953” mentioned in the 1st line at page 29 in paragraph 17 of the above common judgment is corrected and substituted as “24-05-1963.”

Vide order dated 11-08-2015 in I.A. No.8524/2015 in W.P (c) No.28613/2007, I.A. No.8548/2015 in W.P (c) No.18046/2008 & I.A. No.8544/2015 in W.P (c) No.21482/2008.

Sd/-
Registrar (Judicial)