

HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition No.6758 of 2012

Date: 01-6-2015

Between

Namuduri Nageswara Rao

... Petitioner

and

The Deputy GM (HR),
Personal Admn. Dept.,
SBH, HO: Gunfoundry,
Hyderabad;
and 2 others

... Respondents

HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition No.6758 of 2012

Order:

The writ petition is filed seeking a Writ of *mandamus* to declare the

proceedings dated 17-02-2012 issued by the 1st respondent for change of the date of birth of the petitioner from 09-4-1952 to 11-8-1953 as illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India and further the representation to change the date of birth of the petitioner from 09-4-1952 to 11-8-1953 in the service records of the respondents 1 and 2-Bank.

2. It is submitted by the petitioner in the Affidavit filed in support of the writ petition as follows:

(a) The petitioner passed his Secondary School Leaving Certificate (SSLC) examination with date of birth as 09-4-1952. According to him, his date of birth was incorporated on the incorrect declaration made by his father during 1968. He submits that his father could not get actual date of birth from his maternal grand-father, at whose place the petitioner was born. The petitioner passed SSLC in 1968 and subsequently passed PUC in 1969. Thereafter, he passed B.Sc. degree course in April, 1972 from Government Arts College, Rajahmundry under Andhra University, Visakhapatnam. As his date of birth was wrongly entered into the educational certificates, he approached Taluq Office, Polavaram, West Godavari district in the month of June, 1976. On his application, the said Revenue authority had issued date of birth details basing on the Birth Register of the year 1953. In the said birth register of the year 1953, his date of birth was clearly mentioned as 11-8-1953 and it was registered on 18-8-1953 before the said authority. Basing on the birth register, the Tahsildar, Polavaram Taluq, West Godavari district issued a birth extract mentioning the date of birth of the petitioner as 11-8-1953.

(b) It is further submitted that the petitioner joined the State Bank of Hyderabad on 25-10-1976 as Cashier cum Clerk at Miryalaguda Branch, Nalgonda district. At the time of verification of the certificates by the Head Office, Hyderabad, he requested the

competent authority to note the change in the date of birth from 09-4-1952 to

11-8-1953 as mentioned in the birth extract issued by the Tahsildar, Polavaram Taluq, West Godavari district.

But, the same was not noted.

(c) Nextly, it is submitted that in the year 1980, the SSLC Board and PUC were no more in existence and therefore, he was advised by the bank officials to get the date of birth changed in the educational certificates i.e. in degree certificates by assuring him to change the date of birth in the records of the bank after the change takes place in the University records. Accordingly,

he approached the University authorities to change the date of birth by presenting the certificate issued by the Tahsildar, Polavaram. They, in turn, advised him to approach the Court and obtain a decree. In the year 1980, the petitioner filed O.S.No.136 of 1980 in the Court of the Principal District Munsif, Eluru against the Registrar, Andhra University, Visakhapatnam to change the date of birth in his degree certificate. The Court passed a decree on 01-5-1980 in favour of the petitioner directing the Registrar of Andhra University, Visakhapatnam to incorporate the correct date of birth 11-8-1953 in the degree certificate of the petitioner. The Vice Chancellor of Andhra University, Visakhapatnam in the proceedings 28-3-1981 incorporated the correct date of birth of the petitioner as 11-8-1953 as directed by the Court.

(d) Since then, it is submitted that the petitioner has been making several representations to the State Bank of Hyderabad requesting to correct the date of birth as per the proceedings of the Andhra University, dated 28-3-1981. But, the authorities of the bank did not make any correction in the service records. The contention of the petitioner is that on account of the inaction on the part of the respondents 1 and 2-Bank, the petitioner has to forego 16 months of service and the consequent retiral benefits. Therefore, the petitioner filed the present writ petition.

3. In the counter-affidavit filed by the respondents 1 and 2-bank, it is contended, *inter alia*, as follows:

(a) At the time of joining service, the petitioner enclosed SSLC Certificate issued by the Head Master, Zilla Parishad High School, Anantapalli, West Godavari district dated 15-02-1974 showing the date of birth as 09-4-1952 in addition to the certificates of the University. The petitioner declared that the particulars furnished by him in the application for the post are true and correct. Therefore, the bank accepted the date of birth as 09-4-1952, prepared the service record entering the same date of birth. Thus, according to the respondents 1 and 2-bank, in the service records maintained by the bank, the date of birth of the petitioner is 09-4-1952 and he has to retire from service on 30-4-2012.

(b) According to the respondents 1 and 2-bank, for the first time the petitioner submitted a representation dated 23-10-1998 while he was working as Additional Head Cashier for change of date of birth from 09-4-1952 to

11-8-1953 enclosing the Court order dated 01-5-1980 on the file of the Principal District Munsif, Eluru along with proceedings dated 28-3-1981 of the 3rd respondent. Pursuant to the representation, the case of the petitioner was considered and the bank vide proceedings dated

07-01-1999 rejected the request for change of date of birth entered in the service records and marked copy to the petitioner. The respondents 1 and 2-bank denied the contention of the petitioner that even though the petitioner made several representations no action has been taken by the bank to correct the date of birth.

(c) It is the version of the respondents 1 and 2-bank that the petitioner again submitted a representation on 24-01-2011 for change of date of birth along with the same material which was furnished in the year 1998, without pursuing any remedies subsequent to the proceedings dated 07-01-1999, whereunder the request of the petitioner for correction of date of birth was rejected. It

is submitted that the change of date of birth made by the University basically pertains to the degree obtained by the petitioner but not in the record of District Educational Officer, West Godavari, who is the competent authority.

(d) Nextly, it is submitted that the State Bank of Hyderabad is not a party to O.S.No.136 of 1980 filed by the petitioner against the 3rd respondent-University, therefore

it is not bound by the decree passed by the Civil Court.

It is further submitted that the Andhra University did not contest the matter and allowed the decree to be passed in favour of the petitioner, therefore the respondents 1 and 2-bank is not bound to consider the said decree passed by the Court. Thus, it is the contention of the respondents 1 and 2-bank that the request of the petitioner for change of date of birth was duly considered and rejected in the year 1999 itself and the said rejection is not challenged before the appropriate forum. The petitioner again submitted

a representation on 24-01-2011 at the fag end of service which is misconceived and therefore, rejected by the bank.

Contending as above, the respondents 1 and 2-bank sought to dismiss the writ petition.

4. I have heard Sri P.Vishnuvardhan Reddy, learned counsel appearing for the petitioner and Sri Addepalli Suryanarayana, learned Standing Counsel for the respondents 1 and 2-bank.

5. The contention put forth by the respondents 1 and 2-bank that the petitioner for the first time raised the issue of change in date of birth at the fag end of service does not seem to be correct since the material placed on record by the petitioner discloses that even before joining service in the bank, he approached the Tahsildar, Polavaram Taluq, West Godavari district by making an application in June, 1996 and

subsequently, the Tahsildar issued a birth extract taken from the Birth Register of the year 1953 wherein the date of birth of the petitioner is mentioned as 11-8-1953 and the date of birth of the petitioner was intimated to the Revenue authorities on 18-8-1953 by his maternal grand-father. Therefore, the petitioner did not seek correction of date of birth in the Birth Register, he sought correction of date of birth in the SSLC Certificate basing on the birth register wherein his date of birth was recorded on 18-8-1953.

6. The version of the petitioner is that when he approached the Bank authorities after obtaining the birth extract from the Tahsildar, they assured him that they would change the date of birth in the service records after the change takes place in the University records and thereafter, the petitioner approached the University authorities to change his date of birth by presenting the birth extract issued by the Tahsildar, Polavaram. Subsequently, on the advice of the University authorities, he filed a suit in the Court of the Principal District Munsif, Eluru and obtained a decree. The contention of the respondents 1 and 2-bank that the petitioner for the first time submitted a representation for correction of the date of birth in the service record at the fag end of service is therefore not acceptable. As there was no possibility for the petitioner to get the date of birth corrected in the SSLC Certificate, he approached the Andhra University for correction of date of birth in the degree certificate. Since the University made correction of date of birth on being satisfied with the birth extract issued by the Tahsildar, Polavaram, the respondents 1 and 2-bank ought not to have rejected the request of the petitioner for correction of date of birth.

7. For the foregoing reasons, this Court is of the considered view that the petitioner is entitled for the relief prayed for in the

present writ petition. The writ petition, therefore, succeeds and accordingly the same is allowed. Consequently, the order dated 17-02-2012 rejecting the representation of the petitioner for the change of the date of birth of the petitioner is set aside and the respondents 1 and 2-bank are directed to correct the date of birth of the petitioner from 09-4-1952 to 11-8-1953 in the service records. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

R.KANTHA RAO, J.

01st June, 2015.

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HON'BLE SRI JUSTICE R.KANTHA RAO

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01st June, 2015.

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