

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4655 of 2012

- Ashok Singh Kshatri S/o Shri Chhedilal Kashtri Aged About 55 Years, Head Constable No.978, R/o Village Pakariya, P.S. Takhatpur, Dist. Bilaspur C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh Through the Secretary, Department of Home (Police) DKS Bhawan, Raipur (C.G.)
2. Director General Of Police. Police Head Quarter Raipur C.G.
3. Inspector General Of Police Bilaspur Range, Bilaspur (C.G.)
4. Superintendent Of Police Bilaspur District Bilaspur (C.G.)

---- Respondent

For Petitioner	Mr. Uttam Pandey, Advocate
For Respondent /State	Mr. Shashank Thakur, Government Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order

22/2/2016

In this petition under Article 226 of the Constitution of India, the petitioner has prayed for issuance of writ of certiorari to quash the order dated 08.06.2012 Annexure P/1, by which the petitioner has been informed that he has attained the age of superannuation on 30.06.2011.

(2) The issue pertains to a dispute regarding petitioner's date of birth. At the time of entry into service as Constable on 15.06.1979, the petitioner's date of birth was recorded as 12.06.1951, whereas, the

petitioner claims his correct date of birth to be 12.06.1957.

(3) Shri Uttam Pandey, learned counsel appearing for the petitioner, would argue that there is enough evidence in support of the claim that the petitioner's date of birth is 12.06.1957 in the form of Class X Mark Sheet and the *Dakhil Kharij* Register of the School, where the petitioner undergone his primary education. However, ignoring the evidence, the respondents did not take any action to correct the date of birth of the petitioner, therefore, the impugned order deserves to be set-aside.

(4) On the other hand, Shri Shashank Thakur, learned Government State appearing for the State, would submit that prayer for correction of date of birth in the service book is ordinarily not accepted at the fag end of service. He produced the original service book of the petitioner.

(5) On perusal of the service book of the petitioner, it would appear that the petitioner's date of birth is mentioned therein as 12.06.1951 not only in figures but in words also. The concerned Superintendent of Police has verified and signed the entry concerning the petitioner's date of birth on 19.01.1980. Thus, from the very beginning the petitioner's date of birth was recorded in the service book as 12.06.1951. The petitioner remained in service from 1979 to 2011. However, he never raised any dispute about the incorrect entry of his date of birth.

(6) It has been settled by the Supreme Court in 'n' number of cases that prayer for seeking correction of date of birth in the service record is not to be entertained at the fag end of service. (See : **U.P. Madhyamik Shiksha Parishad and others Vs. Raj Kumar Agnihotri, (2005) 11 SCC 465** and **State of Madhya Pradesh and others Vs. Premal Shrivastava, (2011) 9 SCC 664**).

(7) In view of the settled legal proposition, the writ petition filed by

the petitioner after his retirement deserves to be dismissed.

(8) Shri Pandey, learned counsel for the petitioner, has vehemently argued that on the basis of his recorded date of birth i.e. 12.06.1951 the petitioner was required to be retired from service in the year 2011 i.e. on attaining the age of superannuation on completion of 60 years, however, the petitioner was allowed to continue in services up to 08.06.2012 when the order Annexure P/1 was passed, making it effective from 30.06.2011. According to Shri Pandey, there being no explanation as to why the petitioner was allowed to continue from June 2011 onwards till 08.06.2012, it should be held that the authorities had accepted the petitioner's plea for correction in the date of birth and for this reason alone, no recovery has been made from the salary received by the petitioner after June 2011.

(9) Merely because some Clerk in the Establishment or in the Accounts Section, forgot to communicate the petitioner about his attainment of the age of superannuation, the petitioner would not be entitled to continue in service till the year 2017 unless the date of birth, is corrected, as claimed by the petitioner i.e 12.06.1957 in the service book. There being no such correction in the recorded date of birth, the petitioner is not entitled to continue in service for the mistake committed by some employee in the Establishment Section or Accounts Section.

(10) For the foregoing, the writ petition is liable to be and is hereby dismissed.

Sd/-

Judge

(Prashant Kumar Mishra)