

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.9608 OF 2015**Manohar S/o Aabarao Gaikwad Vs. The State of Maharashtra
and others.**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
--	---------------------------

Mrs.Preeti R.Wankhede, advocate for the petitioner
Mrs.P.V.Diggikar, A.G.P. for the State.

**CORAM : S.V.GANGAPURWALA AND
K.L.WADANE, JJ.**
Date : 23.11.2016.

PER COURT :

1. Heard.
2. The petitioner assails the order passed by the Maharashtra Administrative Tribunal, Mumbai, Bench at Aurangabad, dismissing the Original Application filed by the petitioner seeking correction of date of birth in the service record.
3. Mrs.Wankhede, learned counsel for the petitioner submits that the petitioner had filed the Original Application seeking correction in date of birth in the service book. The said Original Application was dismissed on Stamp No. itself, without issuing notice on the ground that within five (5) years, the application for correction of date of birth is not made. The learned counsel

submits that first application seeking correction of date of birth was filed on 27.9.1989 and the same was also received by the office on the said date. However, the said application could not be filed along with the Original Application. The petitioner was appointed with the Respondent in May 1985. The said application was made within five (5) years. Opportunity be given to the petitioner to place the said document on record before the Tribunal.

4. We have heard learned A.G.P., who supports the judgment of the Tribunal and submits that the Tribunal has rightly passed the order, no further inquiry was necessary.

5. We have adjourned the matter on number of occasions, so as to enable the Respondents to confirm about the receipt of the application dated 27.9.1989, copy of which is filed at page 24 of the present Writ Petition. Learned A.G.P. informs that no response is received from the Respondents inspite of communicating the order passed by this Court on 10.10.2016.

6. The law as has been discussed by the Tribunal need not be debated, the same is the settled proposition of law. However, the petitioner has produced the copy of the application purportedly given on 27.9.1989, stating his correct date of birth. We feel that the petitioner needs to be given an opportunity to put forth the same before the Tribunal, so that Tribunal would be in a position to consider the same on its own merits.

7. In light of the above, the impugned order dated 22.7.2015 is quashed and set aside. The parties are relegated before the Tribunal. The petitioner is allowed to file the copy of the application dated 27.9.1989 before the Tribunal and put forth his case.

8. Record and proceedings be sent back immediately. The petitioner is at liberty to file application for amendment before the Tribunal. The parties may appear before the Tribunal on 15.12.2016. As the matter is remitted back, we hope and trust that Tribunal would decide the same expeditiously.

9. The Writ Petition is disposed of. No costs.

(K . L . WADANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.23.11.2016.
asp/office/wp9608.15

