

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13157 OF 2016

Rahul Kisan Pagare

.... Petitioner

Vs.

The Union of India & Anr.

.... Respondents

Mr. Dhananjayrao D. Rananaware for the Petitioner.
Ms Epsita Chatterjee i/by Dholakia Law Associates
for Respondent No.1.

CORAM: S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.

DATE : NOVEMBER 25, 2016

P.C:

1. Heard the learned Advocate appearing for the petitioner. Perused the writ petition and all annexures thereto.

2. The only contention raised before us is that, the alteration in the date of birth as recorded in the Service Book should have been permitted and the period of five years stipulated for the purpose is arbitrary and works unfairly for people like the petitioner.

3. It is submitted that due to lack of education and other reasons, the parents of the petitioner recorded an erroneous date in the school records. The school records erroneously show that the petitioner was born on 10-11-1956. The correct date of birth is 24-1-1959.

4. It is submitted that it is inconceivable and improbable that the petitioner's elder sister and who is stated to be born on 15-8-1956, as is clear from her recorded birth in the school records but as far as the petitioner is concerned, he is supposed to have been born in November, 1956, less than three months from the birth of his elder sister. Thus, this is an obvious error and should have been permitted to be corrected. Now the employer is threatening disciplinary action for having sought this correction.

5. Having heard the petitioner's Advocate, we find that the essential reason that is assigned for rejecting the request is that such request can be made and acted upon within a period of five years from the date of entry in service. Admittedly, the petitioner made no such attempt and the correction was sought

at the fag end of his service career. Once the outer limit of five years is stipulated and cannot be termed as arbitrary, then, in the facts and circumstances of the present case the request is rightly rejected. That the error was discovered only after the father of the petitioner died and therefore this period should have been condoned in the case of the petitioner does not appear to be an acceptable explanation. The authorities have found that once the petitioner entered the service and was aware of the outer limit prescribed, then, he should have taken prompt steps. He entered service on 30-7-1983. Admittedly, his father was alive at that time. In such circumstances, the reason assigned does not appear to be reasonable or satisfactory.

6. Such a view taken by the employer/respondent before us cannot be termed as perverse or vitiated by any error of law apparent on the face of the record. The view taken cannot be said to be arbitrary either. The writ petition is devoid of merit and is dismissed.

(B.P. COLABAWALLA, J.)

(S.C. DHARMADHIKARI, J.)