

BDPPS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

REVIEW PETITION NO.14 OF 2015

IN

WRIT PETITION NO.1401 OF 2009

Yashwant G. Tambe

..... Petitioner.

V/s

Union of India & Anr.

..... Respondents.

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Mr. S.N. Deshpande with Smt. Swarna Munshi for the Petitioner.

None for the Respondents.

**CORAM: V. M. KANADE &
B.P. COLABAWALLA, JJ.**

DATE: 14th March, 2016

P.C.:-

1. Petitioner is seeking review of the order dated 18th March, 2010 passed by this Court.

2. Petitioner had filed Writ Petition No.1401 of 2009 for a declaration that his real date of birth was 1st June, 1950 and not 18th March, 1947. Petitioner joined the service of Respondents on 29th

March, 1971. On the basis of School Leaving Certificate produced by him, his date of birth in his service record was recorded as 1st June, 1950. However, according to the Petitioner, Respondents issued retirement memo dated 25th September, 2006 stating therein that his date of retirement was 31st March, 2007. Petitioner therefore filed Original Application No.49 of 2007 before the Central Administrative Tribunal ("CAT"). However, this OA was disposed of by the CAT with an observation that respondents should first consider the representation of the Petitioner and the Petitioner if aggrieved by the decision of the Respondents can approach the CAT. Petitioner's representation dated 16th April, 2007 came to be rejected and therefore the Petitioner filed Original Application No.327 of 2007 before the CAT which was dismissed by the CAT on 31st December, 2007. Review filed by the Petitioner was allowed and the OA was restored on 18th March, 2008. Thereafter, CAT, again after hearing both the parties, dismissed the OA No.327 of 2007 by its Order dated 31st March, 2009. This order was challenged by the Petitioner in the said Writ Petition. Division Bench of this Court, after noting the submissions of the Petitioner and after going through the duplicate Service Book produced by the Respondents and after noting the ratio of the Judgment of the Apex Court has dismissed the Writ Petition by a well reasoned order.

3. The learned Counsel appearing on behalf of the Petitioner has submitted that the Petitioner received a copy of the original Service

Book after the Petition was dismissed and he noticed that the date of birth which was shown in the original Service Book was 1st June, 1950. He submitted that therefore the memo of retirement which was issued by the Respondents on 25th September, 2006 was illegal and contrary to the service record.

4. It is not possible to accept the submission made by the learned Counsel appearing on behalf of the Petitioner. Firstly, duplicate service record was produced before the High Court and also before the Central Administrative Tribunal. It is an admitted position that after the Writ Petition was dismissed, he preferred an SLP in the Apex Court. In the Apex Court, he filed an additional affidavit in respect his newly received copy of the Service Book. Apex Court, however, dismissed the SLP in limine on 27th January, 2014. It is obvious that the Apex court had perused the newly received copy of the Service Book and despite that did not accept the contention of the Petitioner.

5. It is submitted that since SLP was dismissed by a non-speaking order, Petitioner has a right to file Review Petition.

6. In our view, Review Petition is not maintainable and, in any case, even if it is maintainable, no ground is made out for reviewing the well reasoned order passed by this Court on 18th March, 2010. Writ Petition filed by the Petitioner was dismissed. SLP preferred by him was also dismissed and the ground which is now sought to be raised

before us was considered by the Apex Court while dismissing the SLP. Secondly, Division Bench of this Court has dismissed the Petition by the impugned order on several other grounds which are mentioned in the impugned order. Petitioner therefore cannot be permitted to raise new ground and agitate the same issue again and again.

7. Review Petition is dismissed with costs which is quantified at Rs 5000/-.

(B. P. COLABAWALLA, J.)

(V.M. KANADE, J.)