

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1682 OF 2014**

**Shridhar Madhav Kulkrni } Petitioner
 versus
Mazgaon Dock Ltd. and Ors. } Respondents**

Ms. Neha Bhide for the petitioner.

Mr. P. M. Palshikar for respondent nos. 1
and 4.

**CORAM :- S. C. DHARMADHIKARI &
 B. P. COLABAWALLA, JJ.
DATED :- NOVEMBER 23, 2016**

P.C. :-

1. By this petition under Article 226 of the Constitution of India, the petitioner impugns a communications firstly of 1991 and subsequently of 27th September, 2013.
2. By the final communication, the employer of the petitioner informed the petitioner that the request to alter the date of birth in the service records cannot be accepted at this belated stage.
3. This is one more instance where an employee like the petitioner, at the fag end of the service career, seeks correction in the date of birth entered in the service records. The intent is obvious and that is to prolong the service. The Hon'ble Supreme Court of India has time and again discouraged such proceedings,

particularly of the employees of the public sector corporations or the Government of India undertakings. The Mazgaon Dock Limited is one such undertaking.

4. The petitioner does not dispute that on 28th December, 1990, respondent no. 2, through an office memorandum, directed all the employees to verify the birth dates and make corrections at the earliest. The petitioner is aware of the same and refers to it in para 4 of the petition. However, the petitioner does not further dispute that he made an application along with certified copy of his birth certificate for altering the date of birth. The petitioner claims that he was born on 15th June, 1955. The date of birth entered in the records of respondent no. 1 is 15th June, 1954. The petitioner sought the correction from 15th June, 1954 to 15th June, 1955. That request was rejected way back on 19th January, 1991. Annexure 'D' is the copy of the order in that regard.

5. The petitioner pursued that request, which was already rejected, by further communication of 7th February, 1991. The request contained therein was rejected on 11th February, 1991. It is in these circumstances that the petitioner did not complain thereafter, but knowing fully well, based on the date of birth entered in the service records, that he would be superannuated

from the services of the first respondent on 15th June, 2014, on 30th August, 2013, commenced another round of correspondence and prayed that the change as sought should be effected. That request of the petitioner, which was reiteration of something which was commenced by the petitioner in April, 2013 has met with a rejection and hence the writ petition.

6. The petitioner's advocate Ms. Bhide relied upon the date of birth in the school leaving certificate and which, according to her, is erroneously entered. The date of birth in the birth certificate issued by the Municipal Authority ought to be relied upon according to her, as that overrides the subsequent entry in the school record. Meaning thereby, the entries in the birth certificate have more weightage than that of the school record.

7. We are unable to accept this contention for more than one reason. The Hon'ble Supreme Court of India has clarified that inconvenience is caused by the people requesting at belated stage and at the fag end of their career for alteration in their date of birth. That inconvenience is to larger public interest. The old records and maintained for number of years and decades have a certain sanctity. The entries therein, if have to be deleted or changed or modified, it must be on substantial proof. It is not

merely at the request of officer like the petitioner that the changes can be made.

8. We have perused the impugned order/communication. It clearly records that the petitioner, at the time of joining service, produced the school leaving certificate/S.S. C. passing certificate as the proof of date of birth. On the basis of these documents, the date of birth was recorded as 15th June, 1954. Later on, the petitioner requested to change the date of birth from 15th June, 1954 to 15th June, 1955 on the basis of birth certificate issued by the Municipal Council, Dhule. Since the date of birth was already recorded on the basis of the school leaving certificate/S. S. C. Certificate, the petitioner was advised vide letters dated 19th January, 1991 and 11th February, 1992 to get the certificates amended by the appropriate authorities and submit the same for consideration. It was possible for the petitioner to apply for changes or modification in the entries as regards the date of birth or column in that behalf in the school records/S. S. C. Certificate. The petitioner did not, despite the employer informing, take any steps to apply to the competent authorities to have the school leaving certificate/S. S. C. Certificate modified or changed. The petitioner was aware that the Chairman and Managing Director of the first respondent had, without causing any injustice to those in

service, duly informed them to approach the competent authorities and obtain necessary clarification or orders, based on which, the entries pertaining to date of birth in the service records can be modified.

9. The petitioner has relied upon a case of the co-employee, namely, Francis D'silva. However, in the case of Francis D'silva, the first respondent accepted the request and for reasons which are to be found in para 2 of the impugned communication. We do not think that the petitioner's case can be equated with that of the co-employee Francis D'silva. In these circumstances and when there was no parity in the two cases, the belated request of the petitioner has been rightly rejected. In our opinion, the impugned order cannot be termed as either arbitrary or malafide, leave alone vitiated by any error of law apparent on the face of the record. Consequently, it is not possible to interfere therewith in our writ jurisdiction. The writ petition fails and it is dismissed.

(B.P.COLABAWALLA, J.) (S.C.DHARMADHIKARI, J.)