

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3420/2016

(VISHWANATH KARU KOKODE **VERSUS** STATE OF MAHARASHTRA & OTHERS)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri R.D. Murkute, counsel for the petitioner.
 Mrs.K.R. Deshpande, A.G.P. for the R-1 to 9.

CORAM : SMT.VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : JULY 05, 2016.

By this writ petition, the petitioner challenges the order of the Maharashtra Administrative Tribunal, Nagpur, dated 28.04.2016 rejecting an original application filed by the petitioner for a declaration that his date of birth should be considered as 26.09.1959 in stead of 18.05.1958.

In the service record of the petitioner, his date of birth was recorded as 18.05.1958. According to the petitioner his date of birth is 26.09.1959. The petitioner filed an original application before the Maharashtra Administrative Tribunal for a declaration that his date of birth should be considered by the respondents-Forest Department, as 26.09.1959. The original application was, however, dismissed by the impugned order dated 28.04.2016.

On hearing the learned counsel for the parties and on a perusal of the impugned order, it appears that there is no scope for interference with the impugned order, in exercise of the writ jurisdiction. The document tendered by the petitioner before the respondents was rightly considered by the Tribunal to hold that if that document was to be accepted, the petitioner's date of birth was recorded much before he was actually born. From the copy of the extract of Birth Register, it was noticed by

the Tribunal that the date of birth of the petitioner was mentioned as 26.09.1959 but, the date on which his birth was reported was stated to be 09.01.1959. The Tribunal found that after the petitioner allegedly submitted a representation for correction of his date of birth on 20.09.1994, the petitioner slept over the matter till he filed the subsequent representation on 08.04.2015, when he was on the verge of attaining the age of superannuation. The Tribunal held that it was not possible to consider the documents tendered by the parties on record in an original application to give a decision on the date of birth of the applicant. The Tribunal found that a couple of documents tendered by the petitioner for substantiating his claim in respect of his date of birth were suspicious. A clear finding of fact is recorded by the Tribunal that the petitioner was not able to substantiate his claim that his date of birth is 26.09.1959 and not 18.05.1958. In our view, even otherwise, it is not normally possible for a Tribunal to decide an age row and if at all the petitioner was really interested in seeking a declaration in respect of his date of birth, it was necessary for the petitioner to have filed a civil suit seeking the declaration.

Since no fault can be found with the order of the Tribunal, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE