

***THE HON'BLE SRI JUSTICE A.V.SESHA SAI**

+W.P.No.37723 of 2015

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%28.3.2016

Sundilla Lingaiah

...Petitioner

VERSUS

\$ The Singareni Collieries Company Ltd.,
rep. by its Chairman and Managing Director,
Corporate Office, Hyderabad & others.

...Respondents

< **GIST:**

> **HEAD NOTE:**

!Counsel for Petitioner: Sri Srinivasa Rao Putluri

^Counsel for Respondents: Sri J.Srinivasa Rao

? Cases referred

1. AIR 2014 SC 1975
2. 1992(2) ALT 198
3. 2015(3) ALD 735
4. 2015(6) ALD 320
5. 2014(6) ALD 666 (DB)
6. (2000) 8 SCC 696
7. (2001) 4 SCC 52
8. (1995) 4 SCC 172
9. (2011) 9 SCC 664
10. 2016(1) ALD 278

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.37723 of 2015

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Between:

Sundilla Lingaiah

... Petitioner

and

The Singareni Collieries Company Ltd.,
rep. by its Chairman and Managing Director,
Corporate Office, Hyderabad & others.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 28.3.2016

SUBMITTED FOR APPROVAL:

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THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

1. Whether Reporters of Local Newspapers
May be allowed to see the Judgment?

Yes/No

2. Whether the copies of judgment may be
Marked to Law Reporters/Journals?

Yes/No

3. Whether Their Lordship wish to see the
Fair copy of the judgment?

Yes/No

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.37723 of 2015

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ORDER:

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This writ petition is filed under Article 226 of the Constitution of

India, for the following relief:

“To issue a writ Order or Direction more particularly one in the nature of Writ of Mandamus declaring action of the respondents in alteration of the Age/ Date of Birth of the petitioner as 26 years as on the date of appointment i.e, 21.03.1982 instead of correct date of birth as 21.08.1963 as recorded on the Transfer Certificate issued by the School Authority with a view to retire the petitioner from service at an early date to deprive the continuity of service up to 20.08.2023 thereby issuing one year Advance Notice Advance Notice date for retirement scheduled to be on 29-02.2016 as illegal Arbitrary, unconstitutional violative of Article 14,19(1)(g) of the Constitution of India and contrary to the procedure established under Law, contrary to Mines Act,1952,Mines Rules,1955,the Age Dispute and Retirement Rules of the Respondent Company consequently direct the respondents duly follow the correct date of birth as 21.08.1963 as was recorded on School leaving Certificate which Educational qualifications were duly acknowledged/recorded in the service records were duly acknowledged and was recorded in the service records”

2 . According to the petitioner, he studied upto 9th Class in Dr.Ambedkar High School, Godavarikhani, Karimnagar District and on 21.3.1982 he joined service as a casual labour and he produced school leaving certificate issued by the School authorities to note down his qualification and date of birth as 21.8.1963 at the time of his appointment and in view of the same, he was under the impression that he would continue in service till 20.8.2023 and that he is working as Pump Operator since 1.9.2015. The Respondent Corporation issued one year notice vide Ref No. RG2/OC3(0)/217/DY.PM/353 dated 19.1.2015, informing the petitioner that he would be attaining the age of superannuation i.e. 60 years as on 8.2.2016 and would be retiring with effect from 29.2.2016. The said order is under challenge in the present writ petition.

3. A counter affidavit is filed on behalf of the respondents, denying the averments and allegations made in the writ affidavit and in the direction of justifying the impugned action.

4. Heard Sri Srinivasa Rao Putluri, learned counsel for the petitioner and Sri J.Srinivasa Rao, learned Standing Counsel for the Respondent

Organization apart from perusing the material available on record.

5. Submissions/contentions of the learned counsel for the petitioner:

- (1) The very mention of petitioner's date of birth in service and identity card as 26 years as on 8.2.1982 (date of appointment) is ex-facie illegal and all other records simply carried the same in a mechanical manner.
- (2) Non availability of form "O" i.e. initial medical examination under the Mines Rules is fatal to the case of the respondents.
- (3) The non recording of date of birth as per transfer certificate is untenable.
- (4) The service and identity card was prepared on 17.1.1990 i.e., after (8) years of the joining of the petitioner, as such, no sanctity nor credence can be given to the same.
- (5) The "B" register of 1999 has no relevance at all.

In support of his submissions and contentions learned counsel places reliance on:

1. **M/s Bharat Coking Coal Ltd., and others v. Chhota Birs**
Uranw. ^[1]
 2. **B.Komaraiah v. The Singareni Collieries Co.Ltd., and**
another ^[2]
6. Submissions/ contentions of the learned Standing Counsel for Singareni Collieries Company Ltd.

(1) No illegality nor there exists any infirmity in the impugned action, as such, the writ petition is not maintainable under Article 226 of the Constitution of India and the petitioner is not entitled for any relief from this Court.

(2) The request of the petitioner is a belated one and is liable to be rejected on the solitary ground of delay.

(3) At the time of appointment, petitioner did not produce any proof of age and he was examined by Collieries Medical Officer and found to be 26 years as on the date of appointment i.e. 8.2.1982 and the same was

recorded in service identity card.

(4) In the "B" register also date of birth was registered as 26 years as on 8-2-1982.

(5) In the P.F. form prepared on 25.7.1983 also, the date of birth was recorded and the same was affixed by the petitioner by thumb impression and in employees personal details also the same date of birth was shown.

(6) Though the impugned retirement notice was given on 19.1.2015, the petitioner herein filed the present writ petition on 18.11.2015 i.e after 18 months and there is also no plausible explanation forthcoming for the said delay.

To bolster his submissions and contentions, learned Standing Counsel places reliance on the following judgments:

- (1) **Amula Ramaiah v. Singareni Collieries Co.Ltd., and others**^[3]
- (2) **Madamsetty Ravinder v. Singareni Collieries Co.Ltd., Koithagudem, Khammam district and another**^[4]
- (3) **Order of this Court in W.P.No.9674 of 2015 dated 19.8.2015.**
- (4) **Rolla Sathaiah v. Singareni Collieries Co.Ltd., Hyderabad and another**^[5]
- (5) **G.M.Bharat Coking Coal Ltd., West Bengal v. Shib Kumar Dushad and others**^[6]
- (6) **Hindustan Lever Ltd., v. S.M.Jadhav and another**^[7]
- (7) **Burn Standard Co. Ltd., and others v. Dinabandhu Majumdar and another**^[8]
- (8) **State of Madhya Pradesh and others v. Premlal Shrivastava**^[9]
- (9) **P.Manikya Rao @ P.Manikyam v. APSRTC, Musheerabad,**

7. The information available before this Court manifestly discloses that the petitioner joined the Respondent Company on 21.3.1982 and worked till 8.2.2016 and retired on the even date by virtue of one year notice bearing Ref.No.RG2/OC3(0)/217/DY.PM/353 dated 19.1.2015.

8. The sum and substance of the case of the petitioner is that as per the Transfer Certificate issued by Dr.B.R.Ambedkar High School, Godavarikhani, his date of birth is 21.8.1963 and if it is taken into consideration, the date of retirement of the petitioner would be by the end of August, 2023. It is the complaint of the petitioner that the impugned action is contrary to Rule 5 of the Age Retirement Rules and Instruction 76, which deals with the procedure for determination/verification of age of employees and according to which, the date of birth of the non-matriculantes entered in the School Leaving Certificate shall be decisive. On the other hand, it is the categoric case of the respondents that since at the time of appointment on 21.3.1982 petitioner did not produce any educational certificate, much less, the Transfer Certificate, he was referred to Medical Officer, who assessed his age as 26 years as on the date of appointment. It is also the case of the respondents that in all the documents relating to the employee such as 'B' register, CMPF Form-A nomination and EPR form petitioner's date of birth was entered as 8.2.1956 so also in service book. It is also the case of the respondents that during his entire service of more than three decades, he did not produce the transfer certificate till the date of filing the writ petition. There is no proof to show that the petitioner produced the transfer certificate before the respondents. The other documents pertaining to the service of the petitioner shows his date of birth as 8.2.1956 and the PF Form dated 25.7.1983 shows the thumb impression of the petitioner. In the absence of any other evidence placed on record by the petitioner, it needs to be inferred that for the first time, petitioner produced the transfer certificate

before this Court along with the present writ petition. It is also the objection of the respondents that the claim of the petitioner is belated and liable to be rejected on the ground of delay.

9. It is correct that as per the Retirement Rules of the Respondent Company, the date of birth entered in the School Leaving Certificate produced by the non-matriculantes is decisive, but no evidence is shown by the petitioner that he produced the transfer certificate at the time of appointment, as such, the said transfer certificate, which is now made available for the first time before this Court along with the writ petition, in the considered opinion of this Court would not come to the rescue of the petitioner. There is nothing on record to show that the petitioner raised any objection in his entire service till the date of filing the writ petition. It is also required to be noted that the respondents issued one year notice of retirement on 19.1.2015, but the petitioner filed the present writ petition on 18.11.2015 and there is no plausible explanation forthcoming from the petitioner as to why such delay occurred before filing the present writ petition.

10. Another aspect which the learned Standing Counsel emphatically presses into service is the belatedness of the claim of the petitioner. In this connection it may be apt and appropriate to refer to the judgments cited by the learned Standing Counsel.

(1) In *Amula Ramaiah v. Singareni Collieries Co.Ltd.* (3 supra), this Court at paragraphs 17 to 22 held as under:

“17. In *State of T.N. v. T.V. Venugopalan*: (1994) 6 SCC 302 the Supreme Court held that the date of birth recorded after entering service and countersigned by Government Servant, it would not be permitted to be challenged by the government servant at the fag end of his service.

18. In *Burn Standard Co. Ltd. and others v. Dinabandhu Majumdar and another*: (1995) 4 SCC 172 the Supreme Court held that the date of birth entered in service and leave record on the basis of voluntary declaration made by the employee at the time of appointment,

authenticated by him and never objected to up to the fag end of service (about two years before superannuation), writ petition seeking correction of date of birth filed at such stage ordinarily not entertainable. The Supreme Court was of the view that the extraordinary nature of the jurisdiction vested in the High Courts under Article 226 of the Constitution is not meant for enabling the employees of government or its instrumentalities to continue in service beyond the period of their entitlement according to dates of birth accepted by their employees, placing reliance on the so-called newly-found material. The fact that an employee of government or its instrumentality who remained in service for over decades, with no objection whatsoever raised as to his date of birth accepted by the employer as correct, when all of a sudden comes forward towards the fag end of his service career with a writ application before the High Court seeking correction of his date of birth in his Service Record, the very conduct of non-raising of an objection in the matter by the employee should be a sufficient reason for the High Court, not to entertain such applications on grounds of acquiescence, undue delay and laches.

19. In *State of Madhya Pradesh and others v. Premlal Shrivastava*: (2011) 9 SCC 664, the Supreme Court took the view that the government servant cannot claim as a matter of right correction of date of birth in service record after lapse of time fixed by the employer, even if he has good evidence to establish erroneous entry.

20. In *G.M., Bharat Coking Coal Ltd. West Bengal v. Shib Kumar Dushad and others*: (2000) 8 SCC 696 the Supreme Court held that where question regarding correctness of date of birth as entered in service record raised by employee long after his joining the service and the employer decided the question following the procedure prescribed by statute, statutory rules or instructions, in absence of any arithmetical or typographical error apparent on the face of the record, High Court should not interfere with such decision of the employer in exercise of its extraordinary jurisdiction under Article 226. The Supreme Court further was of the view that whether certificates produced by the employee showing his date of birth different from that entered in his service record, is a disputed question of fact. The High Court in exercise of its jurisdiction under Article 226 should not undertake an inquiry into such question.

21. The facts of the present case have to be examined in the light of the principles enunciated by the Supreme Court in the aforesaid judgments. The normal rule is that when the employee disputes the date of birth which is entered in the service record and produces some documentary evidence showing a different date of birth, it is a disputed question of fact which cannot be adjudicated by this Court in exercise of its jurisdiction under Article 226 of Constitution of India. Further, this Court to exercise its judicial discretion under Article 226,

has to take into account the conduct of the parties, if there is inordinate delay in approaching the Court for their relief, and there are laches on the part of the petitioner, the Court normally would not interfere to grant the relief prayed for in the writ petition. The general rule is that after joining service, the employee if at all disputes the date of birth which is entered in the service record, has to make an application for correction of the same soon-after he joining service or at least within a reasonable time. Further, after rendering services for over a period of decades, the employee cannot plead ignorance of his date of birth entered in the service records. If at all, the employee contends that he was not made aware of the date of birth entered in service record by preventing access to the records maintained by the management, he has to establish the said fact by adducing reliable and convincing evidence. Without there being any compelling reasons, it is not possible to believe that the petitioner in the instant case is not aware of his date of birth entered in service records for a period of 33 years. In all the service records of the petitioner such as Form 'B' register, Identity & Service Card, CMPF Form 'A' his date of birth was mentioned as 31.07.1954.

22. As rightly contended by the respondents, the petitioner cannot claim the date of birth mentioned in the transfer certificate produced by him at the time of his promotion to be correct one and it has to be altered in the service records basing on the transfer certificate as the transfer certificate was produced at the time of interview for promotion for the purpose of showing his educational qualification as 7th Class but not as proof of date of birth. On the said basis, the petitioner is not supposed to ask the management to carry out the correction of the date of birth in the service records. Since no educational qualification was required for the initial appointment of the petitioner, production of date of birth certificate was absolutely unnecessary. Even otherwise, if really the petitioner produces the transfer certificate at the time of his initial appointment, there is no reason as to why the officials refused to enter the said date of birth in the concerned records.”

(2) In *Madamsetty Ravinder v. Singareni Collieries Co.Ltd., Koithagudem, Khammam district*, (4 supra), this Court at paragraphs 18 to 21 held as under:

“18. Broadly speaking the issue as to whether the date of birth entered in the service register of an employee is correct or not is a disputed fact which cannot be investigated into by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India. However, in exceptional cases where the employee raises the question within a reasonable time of his joining into service and produces acceptable and clinching evidence, this

Court may examine the said question in exercise of jurisdiction under Article 226 of the Constitution of India. In the present case, as already stated, the petitioner raised the issue of the correctness of his date of birth 15 days prior to his retirement, in such an event, normal presumption would be that he approached the Court for correction of date of birth with a view to continue in service beyond the normal period of retirement.

19. The contention of the petitioner that he did not verify any of the records relating to his service till the date of receiving the impugned notice directing him to retire is quite unconvincing and unacceptable. The petitioner did not produce any material before this Court showing that he was prevented from accessing to the service records by the management. Therefore, no reliance can be placed on his statement that he does not know the actual date of birth entered in the service records till the date of receiving the impugned notice.

20. As regards the circular dated 01.08.1988, referred to by the learned counsel appearing for the petitioner, the management would ask the employee to submit the documents relating to his date of birth only when there is discrepancy in the service records as to the date of birth and not in each and every case. In the present case, there is no variation or discrepancy in the date of birth of the petitioner entered in the service records and other documents concerning his employment.

21. The petitioner filed Xerox copy of the Transfer Certificate which shows that it was issued to him on 19.09.1973. The petitioner relied on the said certificate wherein his date of birth is mentioned as 08.08.1956. It is not understandable if really the petitioner was having this certificate even prior to his initial appointment, as to why he did not produce the same at any point of time till he attained the age of superannuation. In the absence of any proof the contention that the recruiting officials intentionally did not enter the date of birth mentioned in the Transfer Certificate produced by the petitioner, cannot be accepted. The authenticity and genuineness of the certificate which came to light at the fag end of the service of the petitioner is very much doubtful.”

(3) This Court in W.P.No.9674 of 2015 dated 19.8.2015 at paragraph 6 held as under:

“6. In the instant case, the specific contention of the respondents is that the petitioner did not produce any documentary evidence showing his date of birth at the time of his initial appointment and therefore, he was sent for medical examination and on the said basis, his date of birth was determined and the same has been recorded in the service and other related records. Obviously there is no variation in the records maintained by the respondents company. In such an event, as per the JBCCI guidelines, the respondents

company will not undertake any exercise regarding the correction of date of birth. If the petitioner really produced any documents showing his date of birth, the same would have been entered in the service record of the petitioner. The petitioner obtained secondary school certificate in the year 1982 i.e. after his date of appointment and therefore, the same was not rightly taken into consideration as per the JBCCI guidelines. The petitioner did not make any representation regarding the correction of his date of birth till he received the one year retirement notice dated 30.05.2014 directing him to retire on 01.07.2015. As the representation made by him was rejected, the petitioner filed the present writ petition in March, 2015. The petitioner having rendered service for more than two decades is not supposed to contend that he is not aware of the actual date of birth entered in the service records. The respondents asserted in their counter that the petitioner is informed about the date of birth entered in service record vide letter dated 23.12.2012 and in token thereof, he has affixed his signature on 25.12.2012. It is further contended by them that in all the periodical medical examinations held by the respondents company, the date of birth of the petitioner was mentioned and the same is well within the knowledge of the petitioner. Further, there is no glaring discrepancy in the age recorded in the company records and therefore, as per the JBCCI guidelines, the issue relating to date of birth of the petitioner cannot be reopened. Since the petitioner raised the issue of date of birth in the present writ petition at the fag end of the service, this Court will not exercise its jurisdiction under Article 226 of the Constitution of India to grant relief of correction of date of birth.”

(4) In *Rolla Sathaiah v. Singareni Collieries Co.Ltd., Hyderabad* (5 supra), a Division Bench of this Court at paragraphs 10 to 13 held as under:

“10. The date of birth of an employee, as entered in the service records, while he joined the service, has its own significance. For all practical purposes, it is required to remain the same. It is only when un rebuttable proof is placed contrary to it, that there exists a possibility for altering it that too in accordance with the prescribed procedure.

11. In the instant case, the post against which the petitioner was employed at the inception is an unskilled one. No educational qualifications are prescribed for it. The selection is mostly on the basis of the physical fitness. The relevant Rules stipulate that in case a candidate is unable to produce any proof about his date of birth, the age shall be ascertained from a Medical Officer and the same shall be entered in the service records. The petitioner was selected and appointed on 26.02.1978 and his age was mentioned

as 24 years. In case, the petitioner was of the view that the age mentioned in the service records is not correct, he ought to have taken steps within a short time.

12. The petitioner came forward with certain certificates said to have been issued by the Board of Secondary Education. It is interesting to note that the original did not see the light of the day. The petitioner obtained a certificate on 09.02.2013 from the Police Station, Mandamarri to the effect that he lost the original educational certificate and on that basis, he obtained another certificate. The certificate so filed does not indicate the date of issue and even this is shown as original. The petitioner is shown as 'failed' in that examination. The certificate does not accord with the prescribed form. Similarly, he obtained a study certificate dated 16.07.2011 from Primary School, Bejjanki. However, there is no reference to date of birth in that certificate. The respondents have framed 'Age Retirement Rules'. Rule 3(iii) reads,

"When a person entering service is unable to give his date of birth, but gives his age he should be assumed to have completed the stated age on the date of attestation or the date of medical examination as the case may be. For example, if a person is medically examined on 21st February, 1959, and if on that date his age was stated to be '19', his date of birth should be taken as 21st February, 1946."

The respondents have taken steps in accordance with the said provision.

13. Much reliance is placed upon the date of birth mentioned in the mining certificate and the entries made therein. The purpose, for which the certificate is issued, is very limited in nature. It only enables the holder of the certificate to undertake detonation etc. It has no bearing upon the general service particulars. At any rate, the petitioner, who was so conscious about the date of birth through out, ought to have taken steps to get them corrected in the service records, within short time. Almost for three decades, he did not take any steps in that connection. When strenuous arguments were advanced to impress this Court that the entries in the service record are in favour of the petitioner, we summoned them. In the service record, it is clearly mentioned that the age as on the date of joining the service is 24 years and no mention was made about the date of birth. The column relating to 'educational qualifications' was left unfilled. It is only at a later point of time, that some interpolations were made. Similarly in B-register, in the relevant column, the age was mentioned as 24 years as on 26.02.1978. In the next column, which has nothing to do with the date of birth or age, the date of birth was mentioned at a later point of time with a different ink. Under these circumstances, we find it difficult to grant any relief to the petitioner."

(5) In *G.M.Bharat Coking Coal Ltd., West Bengal v. Shib Kumar Dushad* (6 supra), the Hon'ble Supreme Court at paragraphs 16, 17, 20 and 21, held as under:

“16. In the present case the core question is whether the two certificates subsequently obtained by the respondent on 9-6-1973 and on 3-11 -1983 should be accepted and the date of the birth entered therein should be taken as conclusive. This question is essentially one of fact. Determination of the question requires detailed enquiry into relevant factual matters. Without intending to be exhaustive it can be said that some of the relevant aspects to be considered in such a matter is whether the certificates have been issued by an authority competent to issue the same under any statute or statutory rules; whether the authority issuing the certificate is required under the statute or rules to inquire into the question of date of birth of the person before issuing the certificate and on such inquiry the authority has found the date of birth to be as entered in the certificate or the entry has been made merely on the disclosure made by the holder of the certificate. In the former case some sanctity may be attached to the entry regarding date of birth in the certificate though it is not conclusive, in the latter case the entry having been based on a declaration/disclosure made by the holder of the certificate himself without any enquiry on the part of the authority concerned is of little avail when a dispute regarding the date of birth arises for determination. It is relevant to note here that one of the objections raised to behalf of the appellant against the certificates in question is that the certificates were not issued by the Manager of the colliery who was the competent authority in the matter. If the respondent was basing his case on these documents then it was incumbent upon him to place evidence on record materials from which a conclusion can be reasonably drawn that the date of birth as entered in the certificate is the correct one. Similar is the position regarding the document purportedly issued by the Head Master of Adarsh Madhya Vidhalaya in which the respondent is alleged to have studied. This document is stated to be a School Leaving Certificate in which 1946 is entered as the year of birth of the respondent. There is no material on record to show that when this document was issued to the respondent; he had produced a copy of the same when he entered service in the private colliery (Chirkunda Coal Company) in support of his age and if so why was the document not sent with the service records when the service of the respondent was taken over by the appellant. There are some of the questions consideration of which will depend on the evidence, either oral or documentary to be placed by the parties. The High Court in writ jurisdiction is not the appropriate forum for undertaking such enquiry into disputed questions of fact. At this stage it is relevant to state that if the

respondent's date of birth is taken to be 9-2-1946 then he would have been 14 years of age when he joined service in 1960. No material is available on record that the industrial undertaking in which the respondent joined service was legally permitted to employ a minor. Indeed this fact has been taken note of by the Division Bench of the High Court in its judgment and on that basis the Division Bench modified the judgment of the learned single Judge and held that the respondent's date of birth should be so determined as to fit it with the position that the respondent was 16 years of age at the time of joining service. Unfortunately, the judgment of the Division Bench does not discuss any material on the basis of which the court took such a view. Where from the court got 16 years as the minimum prescribed age for joining service is not indicated in the judgment.

17. The date of birth of an employee is not only important for the employee but for the employer also. On the length of service put in by the employee depends the quantum of retrial benefits he would be entitled to. Therefore, while determining the dispute in such matters courts should bear in mind that a change of the date of birth long after joining service, particularly when the employee is due to retire shortly which will upset the date recorded in the service records maintained in due course of administration should not generally be accepted. In such a case the burden is heavy on the employee who comes to the court with the case that the date of birth in the service record maintained by the employer is untrue and incorrect. The burden can be discharged only by producing acceptable evidence of a clinching nature. We are constrained to make this observation as we find that in a large number of cases employees who are on the verge of retirement raise a dispute regarding correctness of the date of birth entered in the service record and the courts are inclined to pass an interim order for continuance of such employee beyond the date of superannuation on the basis of the entry of date of birth in the service record. Such a situation cannot be commended for the reason that the court in passing such an interim order grants a relief to the employee even before determining the issue regarding correctness of the date of birth entered in the service record. Such interim orders create various complications. Anticipated vacancy for which the employee next in the line has been waiting does not materialise, on account of which the junior is denied promotion which he has all along been lead to believe will be his due on the retirement of the senior.

20. From the provisions in the instructions referred to above, it is clear that in case of dispute over the date of birth of an existing employee who has neither a Matriculation Certificate/Secondary School Certificate nor a statutory certificate in which the Manager has certified the entry regarding the date of birth to be authentic the employer is to refer the matter to the Medical Board. Therefore, no fault can be found with the action taken by the appellant to refer the

case of the respondent to Medical Board. The Medical Board as laid down in the Instructions is to consider the matter on the evidence available with the colliery management and in accordance with the requirement of medical jurisprudence. As noted earlier, in the present case the Medical Board determined the age of the respondent to be 52 years in 1988 and the employer (appellant) accepted such determination. In the circumstances there was hardly any scope for the High Court to interfere with the date of birth as determined by the employer (appellant herein) and issue a writ of Mandamus that the date as claimed by the employee (the respondent herein) should be accepted.

21. In the case of Secretary and Commissioner, Home Department and Ors. v. R.Kirubakaran: (1994)ILLJ673SC , this Court indicated the approach to be made by the Tribunal or the High Court in a dispute regarding correction of age/date of birth, made the following observations:

An application for correction of the date of birth should not be dealt with by the tribunal or the High Court keeping in view only the public servant concerned. It need not be pointed out that any such direction for correction of the date of birth of the public servant concerned has a chain reaction, inasmuch as others waiting for years, below him for their respective promotions are affected in this process. Some are likely to suffer irreparable injury, inasmuch as, because of the correction of the date of birth, the officer concerned, continues in office, in some cases for years, within which time many officers who are below him in seniority waiting for their promotion, may lose their promotions for ever. Cases are not unknown when a person accepts appointment keeping in view the date of retirement of his immediate senior. According to us, this is an important aspect, which cannot be lost sight of by the court or the tribunal while examining the grievance of a public servant in respect of correction of his date of birth. As such, unless a clear case, on the basis of materials which can be held to be conclusive in nature, is made out by the respondent, the court or the tribunal should not issue a direction, on the basis of materials which make such claim only plausible. Before any such direction is issued the court or the tribunal must be fully satisfied that there has been real injustice to the person concerned and his claim for correction of date of birth has been made in accordance with the procedure prescribed, and within the time fixed by any rule or order. If no rule or order has been framed or made, prescribing the period within when such application has to be filed, then such application must be filed within the time, which can be held to be reasonable. The applicant has to produce the evidence in support of such claim, which may amount to irrefutable proof relating to his date of

birth. Whenever any such question arises, the onus is on the applicant, to prove the wrong recording of his date of birth, in his service book. In many cases it is a part of the strategy on the part of such public servants to approach the court or the tribunal on the eve of their retirement, questioning the correctness of the entries in respect of their dates of birth in the service book. By this process, it has come to the notice of this Court that in many cases, even if ultimately their applications are dismissed, by virtue of interim orders, they continue for months, after the date of superannuation. The court or the tribunal must, therefore, be slow in granting an interim relief for continuation in service, unless prima facie evidence of unimpeachable character is produced because if the public servant succeeds, he can always be compensated, but if he fails, he would have enjoyed undeserved benefit of extended service and merely caused injustice to his immediate junior.”

(6) In *Hindustan Lever Ltd., v. S.M.Jadhav*, the Hon'ble Supreme Court at paragraph 9 held as under:

“9. We have heard the parties. It is settled law that at the fag end of career, a party cannot be allowed to raise a dispute regarding his date of birth. The case of the 1st Respondent that he had intimated the Company in 1953 itself is not believable. In the application, which had been filed by the 1st Respondent he himself had given his date of birth as 12th of June, 1927 and also mentioned that his age as 25 years. On the basis of this application and the Matriculation Certificate the Manager had issued a certificate. Thereafter his service record, Provident Fund Booklet and even the Annual Reports contained the 1st Respondent's date of birth as 12th June, 1927. It is impossible to believe that for all these years the 1st Respondent was not aware of the date of birth in his service record or the Provident Fund Booklet. It is impossible to believe that he has not read a single Annual Report in all these years. If, as claimed by him he had informed the Company in 1953, he would surely have made some enquiry whether the service record was corrected. This would have been done, if not earlier, at least at the time when the settlement took place between the Union and the Company. That was the time when other employees were getting their age corrected and therefore it is impossible to believe that the 1st Respondent would not have at that time ascertained what his date of birth was in the service record.”

(7) In *Burn Standard Co. Ltd., and others v. Dinabandhu Majumdar*, the Hon'ble Supreme Court at paragraph 10 held as under:

“10. Entertainments by High Courts of writ applications made by

employees of the Government or its instrumentalities at the fag end of their services and when they are due for retirement from their services, in our view, is unwarranted, it would be so for the reason that no employee can claim a right to correction of birth date and entertainment of such writ applications for correction of dates of birth of some employees of Government or its instrumentalities will mar the chances of promotion of his juniors and prove to be an undue encouragement to the other employees to make similar applications at the fag end of their service careers with the sole object of preventing their retirements when due. Extraordinary nature of the jurisdiction vested in the High Courts under Article 226 of the Constitution in our considered view, is not meant to make employees of Government or its instrumentalities to continue in service beyond the period of their entitlement according to dates of birth accepted by their employers, placing reliance on the so-called newly found material. The fact that an employee of Government or its instrumentality who will be in service for over decades, with no objection whatsoever raised as to his date of birth accepted by the employer as correct, when all of a sudden comes forward towards the fag end of his service career with a writ application before the High Court seeking correction of his date of birth in his Service Record, the very conduct of non-raising of an objection in the matter by the employee, in our view, should be a sufficient reason for the High Court, not to entertain such applications on grounds of acquiescence, undue delay and laches. Moreover, discretionary jurisdiction of the High Court can never be said to have been reasonably and judicially exercised if it entertains such writ application, for no employee, who had grievance as to his date of birth in his 'Service and Leave Record' could have genuinely waited till the fag end of his service career to get it corrected by availing of the extraordinary jurisdiction of a High Court. Therefore, we have no hesitation, in holding, that ordinarily High Courts should not in exercise of its discretionary writ jurisdiction, entertain a writ application/ petition filed by an employee of the Government or its instrumentality, towards the fag end of his service, seeking correction of his date of birth entered in his 'Service and Leave Record' or Service Register with the avowed object of continuing in service beyond the normal period of his retirement."

(8) In *State of Madhya Pradesh and others v. Premlal Shrivastava*, the Hon'ble Supreme Court at paragraphs 8, 12 and 14 held as under:

"8. It needs to be emphasised that in matters involving correction of date of birth of a government servant, particularly on the eve of his superannuation or at the fag-end of his career, the Court or the Tribunal has to be circumspect, cautious and careful while issuing direction for correction of date of birth, recorded in the service book

at the time of entry into any government service. Unless, the Court or the Tribunal is fully satisfied on the basis of the irrefutable proof relating to his date of birth and that such a claim is made in accordance with the procedure prescribed or as per the consistent procedure adopted by the department concerned, as the case may be, and a real injustice has been caused to the person concerned, the Court or the Tribunal should be loath to issue a direction for correction of the service book. Time and again this Court has expressed the view that if a government servant makes a request for correction of the recorded date of birth after lapse of a long time of his induction into the service, particularly beyond the time fixed by his employer, he cannot claim, as a matter of right, the correction of his date of birth, even if he has good evidence to establish that the recorded date of birth is clearly erroneous. No Court or the Tribunal can come to the aid of those who sleep over their rights (See: *Union of India v. Harnam Singh*: (1993) 2 SCC 162).

12. Be that as it may, in our opinion, the delay of over two decades in applying for the correction of date of birth is ex-facie fatal to the case of the Respondent, notwithstanding the fact that there was no specific rule or order, framed or made, prescribing the period within which such application could be filed. It is trite that even in such a situation such an application should be filed which can be held to be reasonable. The application filed by the Respondent 25 years after his induction into service, by no standards, can be held to be reasonable, more so when not a feeble attempt was made to explain the said delay. There is also no substance in the plea of the Respondent that since Rule 84 of the M.P. Financial Code does not prescribe the time-limit within which an application is to be filed, the Appellants were duty bound to correct the clerical error in recording of his date of birth in the service book.

14. It is manifest from a bare reading of Rule 84 of the M.P. Financial Code that the date of birth recorded in the service book at the time of entry into service is conclusive and binding on the government servant. It is clear that the said rule has been made in order to limit the scope of correction of date of birth in the service record. However, an exception has been carved out in the rule, permitting the public servant to request later for correcting his age provided that incorrect recording of age is on account of a clerical error or mistake. This is a salutary rule, which was, perhaps, inserted with a view to safeguard the interest of employees so that they do not suffer because of the mistakes committed by the official staff. Obviously, only that clerical error or mistake would fall within the ambit of the said rule which is caused due to the negligence or want of proper care on the part of some person other than the employee seeking correction. Onus is on the employee concerned to prove such negligence.”

(9) In *P.Manikya Rao @ P.Manikyam v. APSRTC, Musheerabad, Hyderabad*, this Court at paragraphs 8, 11 and 12 held as under:

“8. Regulation No. 19(2)(b) of the Regulations reads as follows:

"Where the person concerned is unable to furnish satisfactory evidence of his age, it should be assessed or the age as declared by the person, whichever is more, shall be accepted as final and the employee shall be assumed to have completed that age on the date of attestation by the Medical Officer."

11. In State of Madhya Pradesh's case: (2011) 9 Supreme Court Cases 664 (supra), it is held at para Nos. 8, 9, 10 and 11 as under:

"8. It needs to be emphasised that in matters involving correction of date of birth of a government servant, particularly on the eve of his superannuation or at the fag-end of his career, the Court or the Tribunal has to be circumspect, cautious and careful while issuing direction for correction of date of birth, recorded in the service book at the time of entry into any government service. Unless, the Court or the Tribunal is fully satisfied on the basis of the irrefutable proof relating to his date of birth and that such a claim is made in accordance with the procedure prescribed or as per the consistent procedure adopted by the department concerned, as the case may be, and a real injustice has been caused to the person concerned, the Court or the Tribunal should be loath to issue a direction for correction of the service book. Time and again this Court has expressed the view that if a government servant makes a request for correction of the recorded date of birth after lapse of a long time of his induction into the service, particularly beyond the time fixed by his employer, he cannot claim, as a matter of right, the correction of his date of birth, even if he has good evidence to establish that the recorded date of birth is clearly erroneous. No Court or the Tribunal can come to the aid of those who sleep over their rights (See: *Union of India v. Harnam Singh*).

9. In *Home Department v. R. Kirubakaran*, indicating the factors relevant in disposal of an application for correction of date of birth just before the superannuation and highlighting the scope of interference by the Courts or the Tribunals in such matters, this Court has observed thus:

"An application for correction of the date of birth should not be dealt with by the tribunal or the High Court keeping in view only the public servant concerned. It need not be pointed out that any such direction for correction of the date of birth of the public servant concerned has a chain reaction, inasmuch as others waiting for years, below him for their respective promotions are affected in this process. Some are likely to

suffer irreparable injury, inasmuch as, because of the correction of the date of birth, the officer concerned, continues in office, in some cases for years, within which time many officers who are below him in seniority waiting for their promotion, may lose their promotions for ever. Cases are not unknown when a person accepts appointment keeping in view the date of retirement of his immediate senior. According to us, this is an important aspect, which cannot be lost sight of by the court or the tribunal while examining the grievance of a public servant in respect of correction of his date of birth. As such, unless a clear case, on the basis of materials which can be held to be conclusive in nature, is made out by the respondent, the court or the tribunal should not issue a direction, on the basis of materials which make such claim only plausible. Before any such direction is issued, the court or the tribunal must be fully satisfied that there has been real injustice to the person concerned and his claim for correction of date of birth has been made in accordance with the procedure prescribed, and within the time fixed by any rule or order. If no rule or order has been framed or made, prescribing the period within which such application has to be filed, then such application must be filed within the time, which can be held to be reasonable. The applicant has to produce the evidence in support of such claim, which may amount to irrefutable proof relating to his date of birth.

Whenever any such question arises, the onus is on the applicant, to prove the wrong recording of his date of birth, in his service book. In many cases it is a part of the strategy on the part of such public servants to approach the court or the tribunal on the eve of their retirement, questioning the correctness of the entries in respect of their dates of birth in the service books. By this process, it has come to the notice of this Court that in many cases, even if ultimately their applications are dismissed, by virtue of interim orders, they continue for months, after the date of superannuation. The court or the tribunal must, therefore, be slow in granting an interim relief for continuation in service, unless prima facie evidence of unimpeachable character is produced because if the public servant succeeds, he can always be compensated, but if he fails, he would have enjoyed undeserved benefit of extended service and merely caused injustice to his immediate junior."

10. In *State of U.P. & Anr. v. Shiv Narain Upadhyaya*, while reiterating the aforesaid position of law, this Court has castigated the practice of raising dispute by the public servants about incorrect recording of date of birth in their service book on the eve of their retirement.

11. Viewed in this perspective, we are of the opinion that the High Court committed a manifest error of law in ignoring the vital fact that the respondent had applied for correction of his date of birth in 1990, i.e., 25 years after his induction into service as a constable. It is evident from the record that the respondent was aware ever since 1965 that his date of birth as recorded in the service book is 1-6-1942 and not 30-6-1945. It had come on record of the Tribunal that at the time of respondent's medical examination, his age as on 27-9-1965 was mentioned to be 23 years and his father's name was recorded as Gayadin; and in his descriptive roll, prepared by the Senior Superintendent of Police as well, his father's name was shown as Gayadin and his date of birth as 1-6-1942 and this document was signed by the respondent and the form of agreement known as "Mamuli Sipahi Ka Ikrarnama" was filled up by the respondent himself with the very same particulars. Therefore, it cannot be said that the decision of the Tribunal rejecting the respondent's plea that it was for the first time in the year 1990, when he was promoted as Head Constable, that he noticed the error in the service record, was vitiated.

In Coal India Ltd.s case (2005) 12 Supreme Court Cases 201 (supra), it is held at para No. 8 as under:

"Thereafter, in the year 1995 he applied to the Company to change the date of birth on the basis of duplicate matriculation certificate obtained by him. It is well settled that an employee will not be permitted to apply for change of date of birth at the fag end of his service career. In the instant case we do not know on what basis after 38 years the Secondary Education Board in Bangladesh corrected the matriculation certificate. This is essentially a question of fact, and in any case the High Court ought not to have exercised its writ jurisdiction to determine the real date of birth. We are of the view that the High Court was in error in allowing the writ petition filed by the respondent and directing Coal India Limited, the appellant herein, to change the date of birth of the respondent from 31-12-1938 to 26-1-1943. We, accordingly, set aside the impugned order of the High Court of Calcutta."

In State of Haryanas case: (2010) 9 Supreme Court Cases 337 (supra), it is held at para Nos. 14, 15 and 16 as under:

14. The import of such a provision has been clarified by this court from time to time. Thus, in para 7 of Home Department v. R. Kirubakaran, this Court held as follows:

"An application for correction of the date of birth should not be dealt with by the tribunal or the High Court keeping in view only the public servant concerned. It need not be pointed out that any such direction for correction of the date of birth of the

public servant concerned has a chain reaction, inasmuch as others waiting for years, below him for their respective promotions are affected in this process. Some are likely to suffer irreparable injury, inasmuch as, because of the correction of the date of birth, the officer concerned, continues in office, in some cases for years, within which time many officers who are below him in seniority waiting for their promotion, may lose their promotions for ever. Cases are not unknown when a person accepts appointment keeping in view the date of retirement of his immediate senior. According to us, this is an important aspect, which cannot be lost sight of by the court or the tribunal while examining the grievance of a public servant in respect of correction of his date of birth. As such, unless a clear case, on the basis of materials which can be held to be conclusive in nature, is made out by the respondent, the court or the tribunal should not issue a direction, on the basis of materials which make such claim only plausible. Before any such direction is issued, the court or the tribunal must be fully satisfied that there has been real injustice to the person concerned and his claim for correction of date of birth has been made in accordance with the procedure prescribed, and within the time fixed by any rule or order. If no rule or order has been framed or made, prescribing the period within which such application has to be filed, then such application must be filed within the time, which can be held to be reasonable."

The Court has, thereafter stated that burden in such cases lies on the applicant and noted that in many of such cases, the employees approach the Court on the eve of retirement. The Courts and Tribunals must be slow in granting any interim relief in such cases. The same principle has been reiterated in *State of UP v. Gulaichi*: 2003 (6) SCC 483; *State of Punjab v. S.C. Chadha*: 2004 (3) SCC 394; and *State of Gujarat v. Vali Mohamed Dosabhai Sindhi*: 2006 (6) SCC 537].

15. As recorded above, it has been held time and again that the application for correction of date of birth is also to be looked into from the point of view of the department concerned and the employees engaged therein. The other employees have expectations of promotion based on seniority and suddenly if such change is permitted, it causes prejudice and disturbance in the working of the department. It is, therefore, quite correct for the State to insist that such application must be made within the time provided in the rules, say, two years, as in the present case.

16. It is also seen that such applications are made very often, almost at the end of the service of the employee or in any case, belatedly. Whatever may be the reason, the fact remains that in the present case, the application was made after some nine years of joining into service. Even assuming that the first respondent came to know in

June 2001 that there was an error in his date of birth entered in the matriculation certificate, as claimed by him, he took more than three years to issue the notice under Section 80 CPC and then to file the suit. Whether the suit was time barred or not, the claim was in any case belated. It has to be filed within the time provided or within a reasonable time and it is not to be entertained merely on the basis of plausible material as held in *Kirbukaran (supra)*. As observed by this Court in *State of UP v. Shiv Narayan Upadhyaya*: 2005 (6) SCC 49]:

"..As such, unless a clear case on the basis of clinching materials which can be held to be conclusive in nature, is made out by the respondent and that too within a reasonable time as provided in the rules governing the service, the court or the Tribunal should not issue a direction or make a declaration on the basis of materials which make such claim only plausible."

In *K. Sridhar Reddys case* 1995(3) ALD 51 (*supra*), it is held at para No. 3 as under:

"Sub-regulation (3) of Regulation 19 makes it very clear that the date of birth as determined after going through the procedure contemplated in Sub-regulation (1) and (2) shall be recorded in the Service Register of an employee and the date so recorded shall be held to be binding and no alteration of such date shall be permitted subsequently. (Emphasis is supplied by the Court). However, Sub-regulation (3) itself empowers the Board as well as the Managing Director to consider the case of any employee under their respective control and alter the date of birth of such employee only under two circumstances:

(i) where in his opinion it has been falsely stated by the employee to obtain advantage otherwise inadmissible, provided that such alteration shall not result in the employee being retained in service longer than if the alteration had not been made; or

(ii) Where in the case of illiterate staff, the Managing Director is satisfied that a clerical error has occurred.

12. In view of the aforementioned judgments cited by the learned Standing Counsel for the respondent Corporation, the Apex Court held that application for change of date of birth of an employee cannot be entertained at the fag end of his service. The petitioner, on his own admission, stated that he has not made an application seeking change of date of birth initially and so, now at the fag end of his service, he cannot blame the respondent Corporation. Accordingly, the petitioner is disentitled for the relief claimed. There are no merits in the writ petition and the writ petition is liable to be dismissed."

12. Coming to the judgments cited by the learned counsel for the petitioner:

(1) In *M/s Bharat Coking Coal Ltd., and others v. Chhota Birs Uranw* (1 supra), the Hon'ble Supreme Court at paragraph 11 held as under:

“11. As stated earlier, this Court needs to decide the manner in which date of birth has to be determined. It is the case of the Appellant that as the Respondent raised the dispute at the fag end of his career and as there exists a set of records being the Form 'B' register which is a statutory document in which the date of birth has been verified by the Respondent himself twice, other non statutory documents should not be given precedence and the orders of the High Court must be set aside. This claim of the Appellant does not stand in the present matter. As determined, the dispute was not raised at the fag end of the career; on the contrary, it was raised in 1987 almost two decades prior to his superannuation when he first came to know of the discrepancy. It has been held in *Mohd. Yunus Khan v. U.P. Power Corporation Ltd.*: (2009) 1 SCC 80, that, “an employee may take action as is permissible in law only after coming to know that a mistake has been committed by the employer.” Thus, the case of the Respondent should not be barred on account of unreasonable delay. Admittedly, the Appellant as the employer in view of its own Regulations being Implementation Instruction No. 76 contained in the National Coal Wage Agreement III, gave all its employees a chance to identify and rectify the discrepancies in the service records by providing them a nominee form containing details of their service records. This initiative of the Appellants clearly indicated the existence of errors in service records of which the Appellants were aware and were taking steps to rectify the same. Against this backdrop, the stance of the Appellant that the records in the Form 'B' register must be relied upon does not hold good as it is admitted by the Appellant that errors existed in the same. Even a perusal of the nominee form exhibits the ambiguity regarding the date of birth and date of joining. It was due to the discrepancies which subsisted that the Appellants gave all its employees a chance to rectify the same. In such circumstances, the Appellants are bound by their actions and their attempt to deny the claims of the Respondent is incorrect. The Respondent in this case duly followed the procedure available and the attempt of the Appellant to deny the claim of the Respondent on the basis of technicality is incorrect. We, therefore, feel that the learned Single Judge has correctly held that:

11. Having given the Petitioner, like all employees, the benefit of seeking correction of the entries contained in their service records including their date of birth, the Petitioner's claim

cannot be denied, merely because he had signed upon the Form 'B' Register at the time of its opening and containing the entry of date of birth a recorded therein."

(2) In *B.Komaraiah v. The Singareni Collieries Co.Ltd.*, this Court at paragraphs 7, 8 and 10 held as under:

"7. I am not referred to any rule which provides for a Middle Pass Certificate or an Admit Card, whereas the rules do provide for a Transfer Certificate. In the ordinary course, Transfer Certificate issued by the Government Institution is prima facie evidence of its contents. A presumption may be rebuttable under Section 114(c) of the Evidence Act may attach to such a document. In the absence of any evidence that it was obtained fraudulently or was tampered with or was otherwise undependable, respondents are bound to consider the same as authentic document, indicating the date of birth of the person in whose favour it was issued. This aspect of the matter escaped the attention of the respondents in dealing with the representations which the petitioner had submitted.

8. It may be true that the petitioner had requested the respondents to set the machinery in motion, for correction of his date of birth, even by reference to the Age Determination Committee. According to him, that does not disentitle him from insisting on the respondents considering the Transfer Certificate issued in accordance with the requirements of the Education Rules and to which a presumption of correctness attaches unless proved otherwise. I am inclined to agree. If a Middle Pass Certificate or an Admit Card issued by the Institution which is not provided by any statute can be a document which shall be taken into consideration correction of date of birth of existing employees, whether it shall not be so in the case of a Transfer Certificate which indicates the elements of both of them was a consideration which was completely ignored by the respondents.

10. In this view, the impugned order cannot be sustained nor can the determination of the age of the petitioner arrived at by the Age Determination Committee without considering the Transfer Certificate be considered as correct. The 1st respondent is therefore directed to consider the request of the petitioner for correction of the date of birth on the basis of the Transfer Certificate which the petitioner had produced. Admittedly, the original of that Certificate was issued prior to the date of his entry into service. The 1st respondent shall consider the effect of that certificate and correct the date of birth of the petitioner in the service record, so as to enable him to continue in service till he attains age of retirement determined on a consideration of the above certificate. There will be a direction that till such time a final decision is rendered, petitioner shall be

continued in service.”

13. The judgment in *M/s Bharat Coking Coal Ltd., and others v. Chhota Birsa Uranw* (1 supra), would not render any assistance to the petitioner as in the said reported judgment, the claim was raised two decades prior to superannuation, but in this case till the date of filing the present writ petition, petitioner did not agitate anything. The judgment reported in *B.Komaraiah v. The Singareni Collieries Co.Ltd.*, (2 supra) would not render any assistance to the petitioner in view of the principles and parameters laid down on the aspect of delay in the judgments of the Supreme Court cited and referred to above. Therefore this Court does not find any merit in the present writ petition.

14. Before parting with the judgment, this Court deems it apposite to observe that the attitude and tendency of approaching the Courts for correction of Date of Birth and for further continuation in service, at the fag end of the service is on higher side in recent times when compared to past. In some deserving cases, such people are emerging successfully also. But there must be proper check and thorough verification of the claims, touching the alteration of date of birth, otherwise the same would be a burden on the State exchequer and the belated claims shall not be entertained.

While considering the claims for correction of Dates of Birth, it is also incumbent and obligatory on the part of the authorities to simultaneously examine the corresponding age of the claimants at the time of passing the examinations such as Seventh Class, Tenth Class etc., also and their relevant eligibilities pertaining to the age, unless the same being exempted by competent authority, as on the date of such examinations. If any claimants are permitted for such examinations without the prescribed age, in the absence of such exemption of age granted by the competent authority, the same shall be a relevant criteria and factor for examining the claims for alteration of Date of Birth.

15. In the result, the writ petition is dismissed. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

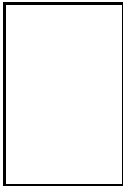
Date: 28.3.2016

Note:

L.R. copy be marked.

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THE HON'BLE SRI JUSTICE A.V.SESHA SAI

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[\[1\]](#) AIR 2014 SC 1975

[\[2\]](#) 1992(2) ALT 198

[\[3\]](#) 2015(3) ALD 735

[\[4\]](#) 2015(6) ALD 320

[\[5\]](#) 2014(6) ALD 666 (DB)

[\[6\]](#) (2000) 8 SCC 696

[\[7\]](#) (2001) 4 SCC 52

[\[8\]](#) (1995) 4 SCC 172

[\[9\]](#) (2011) 9 SCC 664

[\[10\]](#) 2016(1) ALD 278