

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.19017 of 2016

ORDER:

The petitioner is stated to be working as Driver in respondent No.3 Depot. He was appointed as a temporary driver on 01.09.1989 by the proceedings dated 30.06.1990. Later on, his services were regularised by proceedings dated 04.11.1995. He declared his date of birth as 08.07.1962 based on the driving licence possessed by him and as per the said date of birth, his date of retirement is 31.07.2020. However, when respondent No.3 issued proceedings on 02.05.2016 intimating the petitioner about his retirement by taking the date of birth as 22.06.1958, the present writ petition was filed.

A counter affidavit is filed admitting that the petitioner declared his date of birth as 08.07.1962 at the time of recruitment, but he did not submit any valid proof/evidence regarding his date of birth. As per the regulation 19 of the A.P.S.R.T.C. Employees (Service) Regulations, 1964, the petitioner is supposed to submit the certificate recorded in a School or College for the purpose of recording the date of birth, in the absence of which, the assessment made by the Medical Officer of the Corporation would be taken. In the instant case, the petitioner was examined by a Medical Officer on 22.06.1988 and he was found to be 30 years old as on that date. Based on the same, his date of birth was taken as 22.06.1958 instead of 08.07.1962 recorded in the Service Register and the proceedings were issued on 02.05.2016 intimating that he would be attaining the age of Superannuation on 30.06.2016.

Regulation 19 of the A.P.S.R.T.C. Employees (Service)

Regulations, 1964 reads as follows:

“19. Date of Birth:

(1) Every person on entering the service of the Corporation shall declare his date of birth which shall not differ from any declaration, express or implied, made by him for any public purpose before entering such service. For this purpose, the date of birth as recorded in a school or college certificate shall be adopted without any modification.

(2) a) When the year or year and month of birth are known but not the exact date, the 1st July or the 16th of that month, respectively, shall be treated as the date of birth.

b) Where the person concerned is unable to furnish satisfactory evidence of his age, it should be assessed by a Medical Officer of the Corporation and the age so 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.

(3) The date of birth as determined by the appropriate provisions of the preceding clauses shall be recorded in the service register. The date so recorded shall be held to be binding and no alteration of such date shall be permitted subsequently. It shall however, be open to the Corporation in the case of a Class I employee, and to the Managing Director in the case of any other employee under his administrative control, to cause the date of birth to be altered –

(i) where in his opinion it had been falsely stated by the employee to obtain an 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.”

In the instant case, the petitioner was initially appointed as a contract driver and based on his driving licence he declared the date of birth as 08.07.1962. He was subjected to medical examination on 22.06.1988 and the Medical Officer opined that he was of the age of 30 years. There is no authentic evidence on behalf of the respondents, but the date of birth declared by the petitioner is based on a driving licence. In view of the availability of contemporaneous document produced by the petitioner, respondents should have verified the genuineness of the said date

from the Transport Authorities, who issued the driving licence, but no such effort was made. On the approximate date recorded by the Medical Officer on 22.06.1988, the date of birth is modified as 22.06.1958 unilaterally. Sub-rule 3 of Regulation 19 of the A.P.S.R.T.C. Employees (Service) Regulations, 1964 makes it clear that the date of birth recorded in the Service Register shall be taken into account and it shall not be altered subsequently. Now, in the counter affidavit, it is stated that the date of birth entered in the Service Register was by mistake. There is no allegation of fraud or forgery while declaring the date of birth by the petitioner. Since the date of birth declared by the petitioner is supported by some document, this Court is of the opinion that it should be given weight to the approximate date determined by the respondents.

In the circumstances, this Writ Petition is allowed setting aside the proceedings of respondent No.3 dated 02.05.2016 and directing the respondents to allow the petitioner to continue in service upto 31.07.2020. No order as to costs.

Miscellaneous Petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

19.07.2016

MVA