

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 9528 OF 2017

Syed Asifuddin s/o Syed Mohammed

Petitioner

Versus

State of Maharashtra  
& others

Respondents

Mrs. P.R Wankhede, advocate for petitioner.

Mrs. M.A. Deshpande, A.G.P. for respondents.

**CORAM : R.M.BORDE &**

**A. M. DHAVAL, JJ.**

**DATE : 1<sup>st</sup> AUGUST, 2017**

**PER COURT:**

1. Petitioner is objecting to the order passed by the Maharashtra Administrative Tribunal on 03.05.2017 dismissing the original application presented by petitioner.

2. Petitioner was inducted in employment as Police Constable on 12.05.1980. According to petitioner, there occurred error in recording his date of birth in the service record and his date of birth has been recorded as 24.04.1960. According to petitioner, his actual date of birth is 20.04.1962 and not 24.04.1960 as recorded in the service book. Petitioner came to know about his actual date of birth in the year 2009 and he approached the employer seeking correction in the date of birth by tendering application on 15.12.2015. Application tendered by petitioner has been rejected for the reason that inadvertent errors appearing in the service

record can be corrected on consideration of application made within a period of five years and not after lapse of so many years as in the instant case.

3. Reliance is placed on Rule 38 of the Maharashtra Civil Services (General Conditions of Services) Rules, 1981 which prescribes time limit of five years for tendering application seeking correction in the service record. Admittedly, petitioner has tendered application seeking correction in the service record after lapse of about 35 years from the date of his induction in employment. Belated application has been rightly turned down by the authorities. Reliance is placed by the tribunal on the judgment of the Honourable Supreme Court in the matter of **State of Madhya Pradesh and others Vs. Premlal Shivas** reported in **2011-(SC1)-GJX-0872-SC** wherein it has been emphasised by the Honourable Supreme Court that in the 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 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 long time after his induction into the service, particularly beyond the time fixed by his employer under service regulations, 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.

4. In the instant matter, admittedly, the petitioner has approached the authorities after lapse of about 35 years from the date of his induction in employment and at the fag-end of his service career. Relevant regulations prescribe time limit of five years for making correction in the service record. In the instant matter, petitioner has not approached within the time limit prescribed in the service regulations and has approached the authorities at the fag-end of his service career and as such, according to us, the view adopted by the tribunal appears to be reasonable and proper. No interference is called for in exercise of extra ordinary jurisdiction under Article 226 of the Constitution of India. Petition is devoid of substance hence stands dismissed.

**( A.M. DHAVALÉ )**  
**JUDGE**

**( R.M.BORDE )**  
**JUDGE**