

IN THE HIGH COURT OF JUDICATUR OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8398 OF 2017

Balasaheb Sopanrao Tare,
Age 62 years, Occ. Retired,
R/o. Langote Galli, Parbhani,
Taluka and Dist. Parbhani.

...Petitioner.

Versus

The Maharashtra State Road Transport
Corporation, Parbhani Division,
Parbhani,
Through its Controller.

...Respondent.

Advocate for Petitioners : Shri V.P. Golewar.
Advocate for Respondent : Shri A.D. Wange.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 26th September, 2017

JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. The petitioner/Workman is aggrieved by the judgment of the Industrial Court, Jalna, by which, his Complaint (ULP) No. 04/2010, filed before the Labour Court was dismissed and the judgment of the Labour Court dated 04/10/2013 allowing the said complaint has been quashed and set aside by imposing cost of Rs. 10,000/- on the petitioner/Workman.

3. Learned counsel for the petitioner has strenuously criticized the impugned judgment. He has drawn my attention to the six grounds formulated by him in the memo of the petition.

4. He, further, submits that the revisional jurisdiction of the Industrial Court under Section 44 is limited and the Industrial Court could not have set aside the judgment of the Labour Court, which was based on findings on facts.

5. Learned counsel for the respondent has defended the impugned order.

6. I have considered the submissions of the learned advocates for the respective sides.

7. I find that the petitioner had filed his ULP complaint before the Labour Court in the year 2010, after receiving the notice of retirement dated 13/05/2008, informing him that he would stand retired from 30/06/2008. It is not disputed that the age of retirement is 58 years.

8. The petitioner had approached the Labour Court under

Section 1 of Schedule IV with the case that his date of birth is 02/11/1954 and not 02/06/1950, as was mentioned in the service book. The Labour Court got carried away by the fact that the corrected date of birth as claimed by the petitioner was on the basis of the government gazette, in which, he had mentioned his new date of birth as 02/11/1954. It is not disputed that though, the petitioner joined service from 28/03/1980, he had approached the Labour Court seeking correction in the date of birth after twenty eight years of service.

9. The S.S.C. Certificate at exhibit 'C-21' indicated his date of birth as 02/06/1950. Except the gazette at exhibit U-18, there was nothing before the Labour Court to establish that the date of birth of the petitioner was 02/11/1954, notwithstanding the fact that the said issue could not have been entertained. The Labour Court could not have interfered with the retirement notice, at the fag end of the career. The Labour Court did not have the jurisdiction to permit the petitioner to correct his date of birth and that too after his retirement.

10. The Industrial Court, in my view has rightly concluded that firstly, the age for entering the service of the respondent as a Clerk was completion of 18 years. The petitioner had acquired

employment on the basis of his date of birth being 02/06/1950. Secondly, there was no record before the Labour Court, as to how did the petitioner get his date of birth entered in the government gazette as 02/11/1954, when there was no document to indicate that he was born on that day.

11. The government gazette notification at exhibit 'U-18' indicates those the persons who have changed there own birthday date and accepted a new birth date. At the bottom of the entry it is mentioned that the government did not accept any responsibility for the contents of the said gazette.

12. In the above backdrop, the Industrial Court has rightly concluded that the petitioner could not have put forth a claim that his date of birth was 02/11/1954. It is on account of the abuse of the process of law that the petitioner was imposed with cost of Rs. 10,000/- which has been stayed by this Court by order dated 05/07/2017.

13. Learned counsel for the petitioner submits that the petitioner is a retired person and is surviving on pension and hence, cost may not be imposed.

14. Considering the above request, the order of imposing cost

of Rs. 10,000/- by the Industrial Court is be set aside, though the petitioner deserved to be saddled with costs.

15. This petition, is therefore, partly allowed only to the extent of setting aside the direction of costs set out in clause 'C' below paragraph No. 16 of the impugned judgment, without laying down any precedent. The conclusions of the Industrial Court and the order of quashing the judgment of the Labour Court and dismissing the complaint, in clause 16 (B) are sustained.

16. Rule is made partly absolute.

(RAVINDRA V. GHUGE, J.)

S.P.C.