

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.28152 of 2017

ORDER

The petitioner was appointed as casual driver in the respondent-Corporation on 7.11.1989 and his services were regularized with effect from 31.12.1991. In the service register, and also in the nomination form, he mentioned his date of birth as 25.4.1964. He entered into service based on the certificate issued by the Gram Panchayat, Narsingi. However, in the year 1989, he was referred to Civil Surgeon/Medical Officer in order to ascertain his fitness and the Medical Officer assessed his age 30 years approximately.

It appears that a notice was issued to the petitioner on 9.4.2014 asking him to submit proof with regard to the said date of birth. He submitted explanation on 17.4.2014 stating that he was taken into service on the basis of the certificate dated 25.4.1964 issued by the Gram Panchayat, Narsingi. However, in the service register, his date of birth was changed as 7.11.1959 and was stamped. Now, when a notice was issued on 1.6.2017 notifying that the petitioner is going to retire on 30.11.2017, the present writ petition is filed.

A counter-affidavit is filed on behalf of the respondents stating that as per the Medical Certificate No.11507, dated

7.11.1989 issued by the Medical Officer, Tarnaka Hospital, the age of the petitioner was mentioned as 30 years as on 7.11.1989 and that the date of birth of the petitioner was erroneously mentioned as 25.4.1964 instead of 7.11.1959.

There is no proof to show that the date of birth of the petitioner as 7.11.1959. It is the invention of the respondents on the basis of the medical certificate issued on 7.11.1989. It is also an admitted case that the respondents would send the drivers for periodical examination in order to ascertain their medical fitness and while taking the petitioner into service in the year 1989, he must have been subjected to such medical examination in order to ascertain his age. No doubt, in the said medical certificate, the Medical Officer assessed the age of the petitioner as 30 years. But in the entire record, till December, 2016, his date of birth was treated as 25.4.1964.

In an identical issue, in W.P.No.19017 of 2016, this Court did not accept the plea put-forward by the respondent-Corporation that a mistake occurred while entering the date of birth in the service register.

In view of the same, this Writ Petition is allowed setting aside the notification dated 01.06.2017 issued by the 3rd respondent and the respondents are directed to take date of birth of the petitioner as 25.4.1964. No costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

21st November, 2017
rkk

