

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.39036 OF 2017

ORDER:

The petitioner states that he joined the service of the respondent Corporation as a Driver on 05.02.1990 after undergoing due process of selection. Subsequently, his services were regularized with effect from 01.02.1991. When he was served with a notification of retirement dated 01.07.2017 in the first week of November, 2017, mentioning that he is going to retire on 31.12.2017 afternoon, the present writ petition is filed. The petitioner is sought to be retired on 31.12.2017 on the ground that his date of birth is 06.12.1959.

Learned counsel for the petitioner submits that in his application for appointment as Driver, the petitioner mentioned the date of birth as 09.02.1964 and the same was being continued in the service records including the Service Register. This Court called for the records and noticed that the said date of birth was mentioned in all the records of the respondent Corporation and in the Service Register also, the said date of birth was mentioned, but subsequently it was rounded off with red ink by recording 06.12.1959 as the date of birth. This Court noticed that in all the increment orders, the date of retirement was mentioned as 28.02.2022.

The learned standing counsel for the respondent Corporation drew the attention of this Court to the letter of appointment dated 01.02.1990, wherein his date of birth was mentioned as 06.12.1959.

It is not known on what basis, the said date of birth was recorded. The learned standing counsel submits that the said date of birth was mentioned on the basis of the Medical Certificate issued on 06.12.1989 at the time of taking the petitioner into service. Normally Medical Certificate would be obtained in order to ascertain whether the petitioner was fit for employment or not, but not to ascertain the date of birth. The record

contains the age certificate issued by the Medical Officer, PHC., Mungode, Nalgonda District, dated 23.10.1989 indicating the age of the petitioner as 23 years as on that date. The said age certificate was produced before the authorities pursuant to an Interview Call Letter on 06.10.1989. Though the letter of appointment contains 06.12.1959 as his date of birth, all the records maintained by the respondent Corporation showed the original date of birth as 09.02.1964 as mentioned in the application of the petitioner as his date of birth. In the Nomination Form also, the Depot Manager himself mentioned the date of birth as 09.02.1964 in his own handwriting and in the APSRTC Staff Retirement Benefit Scheme Nomination-cum-Authorisation Form, the date of retirement was mentioned as 28.02.2022. The annual grade increment sanction order dated 12.03.2016 also mentions the date of retirement as 29.02.2022, based on the date of birth as 09.02.1964. When 09.02.1964 was taken as the date of birth for all these years, since his date of appointment in 1990, there is no reason for retiring the petitioner on 31.12.2017.

This Court in W.P.No.23388 of 2016, by order dated 06.09.2016 and in W.P.No.25051 of 2016, by order dated 30.09.2016, considered similar cases and allowed those writ petitions on the basis of the records maintained by the respondent Corporation consistently by following one date of birth.

The learned standing counsel for the respondent Corporation submits that at the time of entry into service, the petitioner produced the driving licence issued on 30.10.1981, which is valid from 30.10.1981 to 29.10.1984, and if that is so, without attaining the majority on the date of 30.10.1981, he would not have been issued driving licence. Under what circumstances, the driving licence was issued is not known to this Court and it cannot be considered in the absence of any adverse record produced

by the respondent Corporation by collecting information from the Licensing Authority.

The writ petition is accordingly allowed. Consequently, miscellaneous petitions, if any pending, in this writ petition, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

18.12.2017

Note: Issue order copy by 22.12.2017
(By order)
pln

