

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4231 of 2011**

Dwarika Prasad Singh, Age 59 years, S/o. Sita Ram, R/o. Janjgir,
Tahsil and District Janjgir, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh, Through Secretary, General Administration Department, D.K.S. Bhawan, Raipur, District Raipur, Chhattisgarh.
2. Commissioner, Higher Education, Directorate, Govt. Sci. Campus, Raipur, Chhattisgarh
3. Principal, Thakur Chhedilal Govt. Post Graduation College, Janjgir, District Janjgir-Champa, Chhattisgarh
4. Director, Directorate, Govt. Sci. Campus, Raipur, Chhattisgarh
5. Director, Treasury, Audit & Pension, Raipur, District Raipur Chhattisgarh

----Respondents

For Petitioner	:	Mr. H.V. Sharma, Advocate
For State	:	Mr. Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****10/07/2018**

1. The challenge in the present writ petition is to the notice dated 30.06.2011, whereby the petitioner has been intimated of his superannuation w.e.f. 30.06.2011 onwards.
2. The grievance of the petitioner is that his actual date of birth is 01.07.1952, however inadvertently in the service record so also in the Higher Secondary mark sheet, the date of birth has been reflected as 01.07.1951 and on the basis of the same, the petitioner has been retired from service w.e.f. 30.06.2011, whereas it ought to had been from 30.06.2012.
3. The counsel for the petitioner submits that it is a case where the petitioner has at the first instance itself after coming into service in

the year 1985 made a representation for correction of his date of birth and he has been repeated making representations to the authorities concerned for the same and when ultimately he could not succeed, he has filed the present writ petition challenging the same. He further submits that though the petitioner had in between filed a Civil Suit which stood rejected and had also filed an appeal which again stood rejected, but as the same have not been decided on merits, but have been rejected on technical ground of limitation therefore the order of Civil Court would not affect the claim of the petitioner seeking correction of his date of birth.

4. Per contra, the State counsel submits that it is a case where the petitioner came in employment long back in the year 1980 and he has filed the writ petition now in the year 2011 after the respondents had retired the petitioner w.e.f. 30.06.2011 accepting his date of birth as is reflected in the service record as 01.07.1951. The State counsel further submits that there is no substantial material available on record with which the contention of the petitioner could be accepted of the date of birth in the service record not being proper. He further submits that in any case there is a huge delay on the part of the petitioner seeking for correction of his date of birth and also the fact that the date of birth that is reflected in the service record is inconsonance to the date of birth reflected in the Higher Secondary mark sheet as also in the Higher Secondary certificate issued by the Board of Secondary Education, Madhya Pradesh and therefore these documents being authentic documents, there does appear to be any strong ground made out by the petitioner for change of his date of birth, and thus prayed for rejection of the writ petition.

5. Having heard the contentions put forth on either side and on perusal of record, admittedly the petitioner came in service somewhere in the year 1981-82. That while filling up the service records the date of birth of the petitioner was reflected as 01.07.1951. The petitioner accepted the entry and had also put his signature in his service record without any objection whatsoever so far as the entry of his date of birth is concerned. Further from the records available it appears that the petitioner had passed his Higher Secondary certificate examination in the year 1970 and Annexure P/7 and P/8 are the mark-sheet and the certificate issued by the Board of Secondary Education, Bhopal in this regard. Both these documents show his date of birth to be 01.07.1951.
6. The petitioner though having cleared his Higher Secondary Certificate examination in 1970 and having got his mark-sheet and certificate in the year 1970 had not made any effort at any point of time before any competent authority for correction of the date of birth from 01.07.1951 to 01.07.1952. He even did not challenge the same while seeking employment wherein also he has entered his date of birth 01.07.1951. It is only in 1985 for the first time that he had moved an objection/representation to the authorities for correction of his date of birth from 01.07.1951 to 01.07.1952. Though a representation was made in the year 1985 and on a couple of occasions thereafter, but the petitioner did not approach any competent Court of law for a suitable direction against the respondents for correction of his date of birth.
7. It appears that for the first time, the petitioner in the year 2005 filed a Civil Suit vide Civil Suit No.784-A/2005 against the Board of

Secondary Education seeking for correction of his date of birth, which stood dismissed on 07.02.2006. Against which the petitioner had preferred a Civil Appeal before the Court of the Additional District Judge, Janjgir vide Civil Appeal No. 9-A/2006, which too stood rejected vide judgment dated 04.12.2007. The order passed by the Civil Court and Appellate Court have not been further challenged and the relief sought for against the Board of Secondary Education, thus has attained finality.

8. The petitioner thereafter has filed the present writ petition only after he has retired from service w.e.f. 30.06.2011 on 26.07.2011. Moreover, what also reflects is that except for school leaving certificate which is there in his possession reflecting his date of birth as 01.07.1952, the petitioner has not been able to produce any other documents, by which the entry of 01.07.1951 as his date of birth in the Higher Secondary mark-sheet or the certificate issued by the Board of Secondary Education has to be doubted.
9. It is settled position of law that in case if there is no other substantial piece of evidence available so far as the date of birth is concerned, it would always be the entry that has been made in the Higher Secondary certificate, which would have to be considered as the authentic date of birth of a person.
10. From the factual matrix as is reflected from the discussions held in the preceding paragraphs what clearly reflects is that undoubtedly there is an enormous delay on the part of the petitioner in approaching this Court seeking for a correction of his date of birth. The petitioner from his pleadings states to have made the first

representation in the year 1985 and the present writ petition has been filed in the year 2011, which itself shows that there is a delay of more than 26 years from the date he first raised the dispute. Moreover, the petitioner also has not been able to get the correction of his date of birth in the records of the Board of Secondary Education, which otherwise is an authentic document so far as the date of birth is concerned.

11. It is settled position of law that correction of the date of birth at the tail end of his service career or after his career should not be entertained by the High Court as a matter of routine. This Court does not find strong case made out by the petitioner calling for an interference with the impugned notice of retirement issued by the respondents and there also does not seem to be any strong case calling for correction of the date of birth, so far as the petitioner is concerned.
12. The writ petition thus being devoid of merit deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge