

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

8 WRIT PETITION NO. 3298 OF 2015

BABURAO PANDURANG RATHOD ..PETITIONER

VERSUS

STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

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Mr. Suresh D. Dhongade, Advocate for the
Petitioner.

Mr. S. B. Yavalkar, AGP for Respondents-State.

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**CORAM : S. V. GANGAPURWALA &
SUNIL K. KOTWAL, JJ.**

DATED : 13th JUNE, 2018.

PER COURT:-

1. The petitioner assails the judgment of the Maharashtra Administrative Tribunal dismissing the original application seeking correction in the date of birth. The petitioner joined as a police constable with the respondents under appointment order dated 13.02.1988. The date of birth recorded in the service book of the petitioner is 15.03.1957. According to the petitioner, his correct date of birth is 15.3.1962. The application of the petitioner is negatived by the department. Aggrieved thereafter, he had filed the original application.

(2)

2. Mr. Dhongade, learned counsel for the petitioner submits that the reasoning adopted by the Tribunal that the petitioner did not file application within five years of his joining the service is *per se* illegal. The petitioner on 16.4.1992 had filed an application with the department seeking correction of date of birth alongwith copy of Gazette published by the State Government. The learned counsel submits that in view of the fact that, within five years the application was submitted for correction of date of birth, it was incumbent upon the respondent to consider the corrected date of birth of the petitioner. The petitioner had produced the copy of Gazette, wherein the date of birth of the petitioner has been corrected to 15.3.1962. Even, the admission register in Ashram School, where the petitioner was admitted for the first time shows the date of birth recorded as 15.3.1962, that would be clinching evidence. The petitioner had applied for birth certificate under the Birth and Death Registration Act to the Tahasildar, but is not given the copy. The Tribunal ought to have considered all these aspects in its correct perspective. The learned counsel relies on the judgment of this Court in writ petition no.5372/2014 dated 20.12.2014, so also the another judgment of this Court in writ petition no.6531/2006 dated 19.01.2007.

(3)

3. Mr. Yavalkar, learned A.G.P. supports the order of the Tribunal.

4. We have gone through the judgment of the Tribunal and also considered the submissions.

5. It appears that the petitioner had initially made an application for correction of date of birth on 16.4.1992. The department rejected the said application on 16.4.1992 on the ground that the change of date of birth on the basis of application of the petitioner in Government Gazette would not be relevant. After the application of the petitioner was rejected on 16.4.1992, the petitioner did not take any step and thereafter, made an application in the year 2011 i.e. at very late stage almost 20 years after the rejection of his application.

6. It has been observed by the Tribunal that the petitioner had obtained the validity certificate in respect of his caste, wherein the date of birth of the petitioner is shown as 15.3.1957. Even, the Secondary School Certificate Examination of October 1978 records the date of birth of the petitioner as 15.3.1957. Even, in the seniority list maintained by the department, the date of birth is recorded as 15.3.1957. The service book also records the date of birth as 15.3.1957.

(4)

7. Considering the consistent entries, recording the date of birth of the petitioner as 15.3.1957 and no other documents having a presumptive value recording any other date, the Tribunal has not committed any error in coming to the conclusion and dismissing the original application.

8. Writ Petition stands dismissed. No costs.

(SUNIL K. KOTWAL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE