

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

BENCH AT AURANGABAD.

WRIT PETITION NO.13708 OF 2017

Bhagwan S/o Marotrao Jondhale ... Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

...

Mr.P.N.Kalani, advocate for the petitioner.
Mr.A.V.Deshmukh, A.G.P. for the State.
Mr.M.N.Navandar, advocate for Respondent Nos.2
and 3.

...

**CORAM : S.V.GANGAPURWALA AND
A.M. DHAVAL, JJ.**

Date : 05.02.2018.

PER COURT :

1. Mr.Kalani, learned counsel submits that the petitioner was appointed on 10.5.1991 as Junior Clerk. The petitioner immediately made an application for correction of date of birth in the service record. The real date of birth of the petitioner is 5.11.1964. In the SSC certificate, the date of birth of the petitioner is wrongly recorded as 5.11.1959. Learned

counsel submits that date of birth of the petitioner's elder brother is 5.12.1959 and as per the date of birth of the petitioner recorded in SSC certificate, the petitioner becomes elder to his elder brother. Learned advocate further submits that on 29.3.1984, the date of birth of the petitioner is corrected in the Gazette issued by the Government of Maharashtra as 5.11.1964. According to learned counsel, for 26 years, the application of the petitioner for correction of date of birth is not decided. Because of lethargy on the part of the Respondents, the petitioner can not be made to suffer.

2. The employer Respondent Nos.2 and 3 have filed affidavit. As per the affidavit, it is clear that the date of birth recorded in the service book of the petitioner is 5.11.1959. The date of birth is recorded on the basis of SSC certificate. The petitioner was subsequently issued appointment order on 28.10.1999 for a period of one year and on 29.2.2000 was absorbed in regular establishment. The service book is also signed by the petitioner. As per the

Respondents, the petitioner did not make any application for correction of date of birth within a period of five years from the date of joining the service on regular establishment and for the first time on 29.2.2008 made an application for change in date of birth. It has further come on record that the petitioner filed an application on 18.1.2005 stating that he has completed age of 45 years on 4.11.2004 and he be extended benefit of relaxation from passing Departmental examination. The letter was addressed by the petitioner himself on 18.1.2005. Even in 2005, the petitioner represented the Respondents that his date of birth is 5.11.1959 and he has completed 45 years on 4.11.2004.

3. The petitioner can not approbate and reprobate. On one hand petitioner claims benefit of relaxation from passing Departmental examination representing his date of birth as 5.11.1959 and for retirement depict his date of birth as 5.11.1964.

4. In view of the aforesaid anomalies, the

case of the petitioner can not be considered.

5. The Writ Petition as such is dismissed.
No costs.

(A.M.DHAVAL, J.)

(S.V.GANGAPURWALA, J.)

asp/office/wp13708.17

