

**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

**WRIT PETITION No. 26761 of 2008**

**ORDER:**

This writ petition is filed seeking to issue a writ of mandamus declaring the action of the respondents in issuing the notice dated 01.02.2008 retiring the petitioner with effect from 31.07.2008, as illegal and arbitrary. A consequential direction is also sought to the respondents to continue the petitioner in service by treating his date of birth as 16.07.1952 which is as per Reg.19 of APSRTC (Service) Regulations, 1964 and SSC certificate.

Heard Sri G.Ravi Mohan, learned counsel for the petitioner, and Sri A. Ramarao, learned standing counsel for the respondents.

It has been contended by the petitioner that he passed 10<sup>th</sup> class in the year 1970 and, thereafter, he was appointed as Cleaner in the respondent corporation on 15.08.1975 and in the relevant record, his date of birth was recorded as 16.07.1952 as per the secondary school leaving certificate. But, the respondents had erroneously issued a notice dated 01.02.2008 retiring him from service with effect from 31.07.2008 instead of 31.07.2010. Challenging the same, he filed the present writ petition.

Learned counsel for the petitioner has contended that the date of birth of the petitioner entered in the record i.e., 16.07.1952 was struck down and the year of the date of birth was replaced with "1950" and

based upon that altered date of birth of the petitioner, the petitioner was made to retire prior to his actual date of superannuation.

Learned standing counsel for the respondents has contended that the actual date of birth of the petitioner as per the service register maintained by the respondents is 16.07.1950 and the petitioner himself admitted in a representation that he has not given any proof of his date of birth and he was subjected to medical examination at the time of his initial appointment and based upon the medical officer's report, the age of the petitioner was assessed at the time of his appointment and his date of birth was entered as 16.07.1950. Therefore, no illegality has been committed by the respondents in retiring the petitioner on attaining the age of superannuation on 31.07.2008.

This Court having considered the rival submissions made by the parties is of the considered view that the petitioner had passed 10<sup>th</sup> class in the year 1970 i.e., five years prior to his initial appointment in the respondent corporation. Therefore, this Court feels that the date of birth as entered in the secondary school leaving certificate should be taken into account for the purpose of service record. Therefore, the petitioner is directed to furnish the original secondary school leaving certificate before the respondents and stake his claim for continuation beyond 31.07.2008 up to 31.07.2010 and upon such production of the certificate, the respondents shall consider the same and pass appropriate orders, within four weeks.

The writ petition is accordingly disposed of. Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

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**ABHINAND KUMAR SHAVILI, J**

5<sup>th</sup> November, 2018  
cbs



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(disposed of)

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