

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Appeal No. 814 of 2018**

Shiv Kumar Mishra S/o Shri Satyanaryan Mishra Aged About 27 Years R/o Ring Road Mission Chowk, Udiya Mahraj Complex Ambikapur, Police Station Ambikapur Tahsil Ambikapur District Surguja Chhattisgarh.

**---- Appellant****Versus**

1. The Central Bank Of India Through The Zonal Manager, G.E. Road Bombay Market Raipur, Police Station Gole Bazar District Raipur Chhattisgarh.
2. Regional Manager, Regional Office, Central Bank Of India, Dhanjal Complex, Gandhi Chowk Ring Road, Aambikapur District Surguja Chhattisgarh.
3. Sub-Area Manager Regional Office, Central Bank Of India, Dhanjal Complex Gandhi Chowk Ring Road Ambikapur District Surugja Chhattisgarh.

**---- Respondents**


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| For Appellant       | : Shri Manoj Paranjpe, Advocate.       |
| For Respondent/Bank | : Shri Shaleen Singh Baghel, Advocate. |

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**Hon'ble Shri Ajay Kumar Tripathi, Chief Justice****Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****13/02/2019****Per Ajay Kumar Tripathi, Chief Justice**

1. Heard counsel for the parties.
2. Writ application filed by the Appellant before the learned Single Judge was dismissed on 14.09.2018. His grievance was that he was wrongly not considered for appointment on two posts, for which an advertisement was issued on 29.10.2012 on the ground that he was overage. The two posts in question were of Safai Karmi-cum-Peon and other was that of Peon.
3. The learned Single Judge was not impressed by the pleadings and assertion in relation to the date of birth of the Appellant to be 08.06.1986 because these documents were more contemporaneous to the date of advertisement and to some extent lacked certain authenticity, if not suspicion about them to be correct in

the face of some further evidence which was brought on record by the Respondents before the learned Single Judge where his date of birth was shown to be 08.06.1972. The learned Single Judge records the facts as under:-

“4. Perusal of record would show that all these documents pertaining to his date of birth where his date of birth is reflected as 08.06.1986 are all documents collected immediately before the recruitment process had begun or immediately after the recruitment process had commenced. As such, there was no document in possession of the petitioner which he had in his possession of a period of an earlier date to substantiate his date of birth.

5. On the contrary, the respondents have been able to produce two documents along with return i.e. Annexures R/2 & R/3. Annexure R/2 is a driving licence which shows his date of birth as 08.06.1972. This licence was issued by the concerned Transport Authority as early as on 25.08.2000. Similarly, there is another document obtained by the respondents i.e. Annexure R/3 dated 27.07.2012 i.e. the posting order of the petitioner while working under the Ex-service Multipurpose Services (India) Pvt. Ltd. where again the date of birth of the petitioner has been reflected as 08.06.1972. This document has not been controverted by the petitioner in any manner. Neither he has any evidence to hold that these documents are false or fake documents relied upon by the respondents.”

4. Even though, the appeal was filed on 13.12.2018 against the order of the learned Single Judge on a closer questioning as to how the Appellant can overcome the two documents i.e. Annexures R/2 and R/3, that is annexed to the reply filed on behalf of the Respondents, we are not shown any other material or evidence which demolishes the said finding or authenticity of the two documents i.e. Annexures R/2 and R/3.

5. In view of such a controversial fact and a wide variance in the date of birth where some documents reflects 08.06.1972 as the date whereas 08.06.1986 is being claimed by the Appellant, the refusal by the learned Single Judge to give a direction upon the Respondents for considering him for appointment on the post of a Peon which he was denied because of overage, cannot be a misplaced opinion

to arrive at. The refusal by the learned Single Judge in the above facts and circumstances is not required to be interfered in appeal in absence of any rebuttal or evidence in existence against the Petitioner/Appellant as to his authentic date of birth.

6. The appeal has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)  
**CHIEF JUSTICE**

Sd/-

(Parth Prateem Sahu)  
**JUDGE**