

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4909 OF 2019

Kundilik S/o Vitthalrao Patole

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. A.K. Siddiqui, Advocate for Petitioner

Mr. S.P. Pulkundwar, Assistant Government Pleader for
Respondents/State

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

DATE : 24th APRIL, 2019

ORAL ORDER:

1. The petitioner had filed original application before the Maharashtra Administrative Tribunal, Aurangabad. The same is rejected on the ground of limitation.

2. Mr. Siddiqui, the learned Counsel for the petitioner submits that considering the date of birth of the petitioner as of the year 1957, the petitioner working as a Police Patil, was superannuated from service on 17.07.2017. The learned Counsel submits that the petitioner's date of birth is 01.07.1961. The said date of birth is also corrected under the order of the Court Viz. Judicial Magistrate First Class, Ghansavangi, Dist. Jalna dated 22nd March, 2018. The said aspect has to be considered by the authorities. The Tribunal also failed to consider the same.

3. The learned Assistant Government Pleader accepts the notice for the respondents and submits that the petitioner applied for the correction of date of birth of the petitioner after he had retired from the service.

4. The order passed by the Tribunal does not suffer from any infirmity. The petitioner stood superannuated as per his date of birth recorded in his service record on 17.07.2017. It appears that the petitioner thereafter applied for the correction of date of birth and under the order of the Judicial Magistrate First Class, Ghansavangi dated 13.09.2017, the application of the petitioner for correction in date of birth is allowed, and thereafter, he had applied to the authorities to re-appoint him on the post of Police Patil. Such recourse is not permissible. The date of birth cannot be changed after the petitioner was superannuated.

5. We are at pains to observe that the Judicial Magistrate First Class, Ghansavangi, Dist. Jalna had dealt with the application filed by the petitioner in a casual manner and without application of mind. From the order, it appears that without following the proper procedure and considering the provisions of law in a very casual manner, the order is passed that the entry of the date of birth of the petitioner shall be taken as 01.07.1961 by Village Development Officer, Anterwali Tembhi. The procedure prescribed under the

provisions of The Birth and Death Registration Act, 1969 and the Rules framed thereunder were not followed. We do not find from the order that the learned Judicial Magistrate First Class, Ghansavangi, Dist. Jalna has arrived at a conscious satisfaction and on the basis of such orders, the benefits are sought to be taken by the litigant. The Judicial Magistrates are required to be conscious of the fact that the orders can be misused for service benefits. The order has been passed in the irresponsible manner and as a matter of course. The Judicial Magistrates are required to be diligent while passing the orders on such applications for correction of date of birth.

6. The Writ Petition is dismissed. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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