

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5064/2017

Maroti @ Maruti S/o Jairam Ukey

..Vs..

Executive Engineer, Maharashtra State Electricity Distribution Company
Limited, Amravati

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.Y. Kapgate, Advocate for the petitioner.
Shri S.V. Purohit, Advocate for the respondent.

CORAM : Z.A. HAQ, J.

DATED : 1.8.2019.

Heard.

2] The petitioner was appointed as Helper on 30th November, 1993 on regular establishment of respondent. On 14th September 1994, petitioner had applied for correction of the entry in the service book pertaining to his date of birth. The service book showed date of birth of the petitioner as 17th April, 1957. According to the petitioner, his date of birth is 18th May, 1958.

3] The petitioner relies on the extract of Birth and Death Kotwali Register and contends that his date of birth is 18th May, 1958. The service book shows that date of birth of petitioner is recorded as 17th April, 1957 on the basis of school leaving certificate submitted by the petitioner himself.

4] The application submitted by the petitioner on 14th September, 1994 requesting for change in date of birth was rejected by the Authorities on 21st July, 2000. The petitioner filed complaint before the Industrial Court under Section 28 read with Item 9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 in September, 2013. Though the petitioner tried to explain the delay and latches in filing the complaint, in the cross-examination before the Industrial Court, the petitioner admitted that he was given intimation on 21st July, 2000 that his application for correction of date of birth was rejected and I find that there is no sufficient and proper explanation given by the petitioner for not approaching the Court immediately and approaching the Court in 2013.

5] Photocopy of relevant extract of the Birth and Death Kotwali Register on which the petitioner relies is placed on record of this petition at page No.88 (Annexure G). It is photocopy of certified copy obtained by the petitioner in June, 2001. Coloumn No.6 shows the name of the child who was born and in respect of whom the entry is taken as “Maruti” and below the name “Maruti” 29.5.58 is scribed. It is not known why this date is scribed below the name Maruti.

6] The service book shows that the petitioner himself had submitted the school leaving certificate on

the basis of which his date of birth was recorded as 17th April, 1957. The service book shows that the entries taken in the service book were accepted by the petitioner by endorsing his signature at the relevant place on 30th December, 1958.

7] Thus, I find that there are disputed questions of fact which cannot be adjudicated in the extraordinary jurisdiction. Learned Advocate for the petitioner suggested that the matter be remanded to the Industrial Court for considering the claim of the petitioner again, in the light of the evidence on record. As I find that the petitioner has not been able to explain the inordinate delay of about 13 years and latches on his part in approaching the Court and the petitioner has surpassed the age of superannuation even considering the date of birth as claimed by him, I am not inclined to interfere in the matter.

8] Hence, the writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE