

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.17603 of 2019

ORDER:

This writ petition is filed seeking the following relief :-

“....to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not considering the representation dt.18.04.2018 of the petitioner, not correcting the date of birth as 21.06.1960 instead of 21.10.1960 as directed by the 3rd respondent to rectify the date of birth of the petitioner vide his letter in C.No.1602/ A3/ CID/ 2018 dt.14.03.2018 and paying the salary to the petitioner to an amount of Rs.3,34,688/ towards 4 months salary of the petitioner as illegal and arbitrary and consequently direct the respondents to rectify the date of birth of the petitioner as directed by the 3rd respondent vide his letter in C.No. 1602/ A3/ CID/ 2018 dt.14.03.2018.....”.

Heard Mr.G.Gopi, learned counsel for the petitioner and the learned Government Pleader for Home.

It has been contended by the petitioner that he was initially appointed as a Constable on 06.05.1983 and after rendering considerable length of service, he was promoted to the post of Head Constable and later as Assistant Sub-Inspector of Police. The petitioner submits that his date of birth was incorrectly entered in the service record as 21.06.1960, instead of recording the same correctly as 21.10.1960. After noticing the same, the petitioner has submitted a representation to the respondents on 18.04.2018 requesting to correct his date of birth as 21.10.1960, instead of 21.06.1960. Pursuant to the said representation, the 3rd respondent has recommended his case to the 4th respondent for taking necessary action vide proceedings dated 14.03.2018, however the

4th respondent has not taken any steps to correct his date of birth. Hence, the present writ petition.

Learned counsel for the petitioner has contended that the petitioner has studied upto 7th class and in the school record, the date of birth of the petitioner was correctly entered as 21.10.1960, but in the service record, the date of birth of the petitioner was incorrectly entered as 21.06.1960 and based upon such incorrect date of birth, the petitioner was made to retire from service on 30.06.2018. Therefore, the learned counsel submits that appropriate orders be passed in the writ petition directing the respondents to treat the date of birth of the petitioner as 21.10.1960, instead of 21.06.1960 and make him to retire on 30.10.2018 and pay four months salary i.e., Rs.3,34,688/- to the petitioner with all consequential benefits.

The learned Government Pleader appearing for the respondents has contended that the date of birth of the petitioner was entered as 21.06.1960 in the service record and if the petitioner has any grievance with regard to entry of his date of birth in the service record, he ought to have taken steps in accordance with G.O.Ms.No.165 dated 21.04.1984, but the petitioner has not taken any steps in terms of the said G.O. The petitioner has approached the Court after retiring from service seeking correction of his date of birth. In support of her contention, the learned Government Pleader has relied upon the judgment of the Hon'ble Supreme Court in Civil Appeal No.2331 of 2004 dated 19.09.2011 (*State of M.P. and others Vs. Prem Lal Shrivastava*) and contended that the Government servants cannot seek correction of date of birth at the fagend of their

service that too after a long lapse of time. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that the request of the petitioner to correct his date of birth just before a few months of his retirement was rightly rejected by the respondents, as the Supreme Court in the aforesaid judgment has rightly held that the Government Servants cannot approach the Court at the fagend of their service seeking correction of date of birth and more so, the petitioner has approached the Court after retirement from service. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 12-12-2019
Prv

