

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.15937 of 2018

ORDER:

This writ petition is filed seeking a Writ of Mandamus, declaring the action of respondents in retiring the petitioner with effect from 30.04.2018, as illegal, arbitrary, unjust and against the letter dated 26.02.2018 confirming the date of birth of the petitioner as 02.04.1961, and accordingly set aside the same and sought a consequential direction directing the respondents to continue the petitioner in service till 30.04.2019, by taking the date of birth of the petitioner as 02.04.1961.

2. Heard Sri K.R.Srinivas, counsel for petitioner and the Government Pleader for Home, appearing for respondents.

3. It has been contended by the petitioner that he was appointed as a Fireman on 05.05.1979 and later on, after rendering considerable length of service, he was promoted as Leading Fireman on 07.04.2011. The petitioner had submitted that at the time of his appointment, his date of birth was rightly entered as 02.04.1961. The petitioner further submitted that even in his SSC Certificate also, the date of birth was recorded as 02.04.1961. He submits that as per his driving licence also, his date of birth is 02.04.1961, but the respondents have erroneously

recorded his date of birth as 02.04.1960. The 4th respondent has addressed a letter to the Additional Joint Secretary to the Director of Government Examinations, Telangana to confirm whether the date of birth of the petitioner is 02.04.1960 or 02.04.1961. In response to the same, the Additional Joint Secretary to the Director of Government Examinations, Telangana has replied vide his letter dated 26.02.2018 confirming the date of birth of the petitioner as 02.04.1961. In spite of such clarification being issued by the Additional Joint Secretary to the Director of Government Examinations, Telangana, the respondents have issued proceedings dated 24.04.2018 to the effect that the petitioner would be retiring with effect from 30.04.2018 on attaining the age of superannuation. Counsel for petitioner contend that the date of birth of the petitioner was altered by the respondents without giving any opportunity or notice to the petitioner, therefore, counsel for petitioner contends that the impugned action of respondents in retiring the petitioner with effect from 30.04.2018 be set aside and petitioner be continued in service till 30.04.2019.

4. The learned Government Pleader appearing for respondents has contended that at the time of initial appointment of the petitioner, the date of birth of petitioner was entered as

02.04.1960 and the petitioner has completed SSC in September 1989, after appointment in service. Any date which is entered nearly after ten years of entering into service will not be of any help to the petitioner and as per the service record, the date of birth of the petitioner was entered as 02.04.1960 and respondents have rightly taken steps to retire the petitioner based upon the date of birth entered in the Service Register.

5. This Court, after hearing the rival submissions, had directed the Government Pleader to produce the original service record of the petitioner. A perusal of the said Service Record of the petitioner shows that the year of birth was altered from “1960” to “1961”. There were certain corrections in the entries and at the time of appointment, the petitioner had not made any efforts to see that his date of birth is correctly entered. The State Government had issued G.O.Ms.No.165, dated 21.04.1984 providing to seek for correction of date of birth. After issuance of the above said G.O., all employees were supposed to give one declaration within 30 days as to his actual date of birth. Nowhere in the affidavit, it was pleaded by the petitioner as to what declaration he had given after issuance of G.O.Ms.No.165, dated 21.04.1984 and what steps had been taken seeking correction of date of birth, are also not set out by the petitioner. The petitioner

has approached this Court by way of filing the present writ petition just before 3 days of his retirement. The law is well settled that employees cannot approach at the fag-end of their career seeking correction of date of birth. Admittedly, the petitioner has approached this Court just three days before his retirement seeking correction of date of birth, which is not permissible as per Service jurisprudence. Therefore, this Court is not inclined to interfere in the matter.

6. The writ petition is devoid of merit and the same is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

11th June, 2019

ajr