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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5097/2019**

RAJENDRA KISHORE OJHA

..... Petitioner

Through: Mr Sunil K. Mittal, Mr Kshitij Mittal  
and Mr Harshit Vashisht, Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr Kamal Kant Jha, Senior Panel  
Counsel with Mr Prabhakar Thakur,  
Advocates for UOI.  
Ms Avnish Ahlawat, Standing  
Counsel, GNCTD with Mr N. K.  
Singh and Ms Palak Rohmetra,  
Advocates for R-2.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

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**10.05.2019**

**CM No.22578/2019**

1. Allowed, subject to all just exceptions.

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2. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to the respondents for correcting his date of birth as mentioned in the service record maintained with respondent no. 2 (The Commissioner of Police). The petitioner prays that the said date be corrected so as to read as 29.04.1961, instead of 29.04.1960.

3. The petitioner joined the services of Delhi Police on 22.10.1982 as a

Sub-Inspector (Executive) after clearing the qualifying examination.

4. The petitioner filed a request for correcting his date of birth on 25.04.2018, almost 36 years from the date he joined the services. The petitioner's request was rejected by an order dated 19.03.2019, in view of an office memorandum (OM) dated 16.12.2014 .

5. In terms of the aforesaid OM, a request for change in the date of birth can be made by a person within 5 years of his entry into government service and subject to the same being established as a genuine and *bona fide* mistake. This is also subject to an additional condition that a change of date of birth should not have rendered the concerned person ineligible to appear in any school or university or Union Public Service Commission examination in which he had appeared or for entry into government service on the date on which the concerned person first appeared at such examination or on the date on which the concerned person entered government service.

6. It is the petitioner's case that his school leaving certificate incorrectly recorded his date of birth. Consequently, all the records available with the petitioner also reflected his incorrect date of birth. It is contended that the petitioner discovered his correct date of birth in a casual conversation with his uncle, sometime in the year 2018. The petitioner claims that he took immediate steps to ascertain the correct date of birth from the hospital where he was born. And, found that the Hospital's record indicated the petitioner's correct date of birth.

7. Mr Mittal, learned counsel appearing for the petitioner, contends that the period of 5 years as provided in the OM dated 16.12.2014 should be computed not from the date of the petitioner's entry into government

service but from the date he became aware of the incorrect date of birth.

8. The above contention is unmerited. The Office Memorandum dated 16.12.2014 is to be strictly enforced. Clearly, the period within which the correction of the entry is to be made cannot be left open ended on the incumbent becoming aware of the same. The present case presents a good example of how the said provision may be misused if not strictly enforced. The petitioner claims to be unaware of his correct date of birth and claims to have discovered the same on a casual conversation with his uncle about a year before his retirement. Curiously, the petitioner claims that he has lived all his life, without being aware of his correct age. His ignorance, if any, is compounded by the fact that information about his age is, apparently, common knowledge in the family: his uncle mentions it in a casual conversation. It is precisely for this reason that the OM has been issued – to prevent correction of entries in the service record which are occasioned by dawn of wisdom in the later years of service.

9. This Court finds no ambiguity in the plain language of the OM dated 16.12.2014. This Court is also of the view that such frivolous litigation ought to be discouraged.

10. In view of the above, the present petition is dismissed with costs quantified at ₹10,000/-. The cost shall be deposited with the Delhi High Court Advocates' Welfare Trust within a period of one week.

**VIBHU BAKHRU, J**

**MAY 10, 2019/MK**