

ORDER SHEET

WPO 418 of 2020  
IN THE HIGH COURT AT CALCUTTA  
Constitutional Writ Jurisdiction  
ORIGINAL SIDE

TARUN MALAKAR  
VS.  
THE STATE OF WEST BENGAL & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 16<sup>th</sup> December, 2020

Mr. Debdutta Basu, Advocate for the petitioner.

Ms. Deblina Chattaraj, Advocate for West  
Bengal Transport Corporation Limited.

Mr. Subhabrata Dutta, Mr. Debashis Sarkar,  
Advocates for the State respondent.

The Court : The petitioner is a driver of the West Bengal Transport Corporation Limited. He approached this Court on an earlier occasion praying for correction of his date of birth in his service records. The aforesaid writ petition filed by the petitioner being W. P. 481 of 2019 was disposed of by an order dated 25<sup>th</sup> September, 2019. The Court after hearing all the parties and upon perusal of the records, inter alia, passed the following order:

“ .....As the respondents have already accepted that the date of birth has been incorrectly mentioned in the retirement list of the year April 2019 to March 2020 accordingly the instant writ petition is disposed of by directing

the respondent Authorities to treat the date of birth of the petitioner as 1<sup>st</sup> March, 1961 (First March Nineteen Hundred Sixty One) as is appearing in the service records of the petitioner as maintained by the respondent Company.

It is made clear that the petitioner shall not come forward with any other representation for change of his date of birth in future.”

In compliance of the direction passed by the Court the Deputy Managing Director of the Company by a communication dated 8<sup>th</sup> November, 2019 intimated the petitioner that his date of birth will be recorded as 1<sup>st</sup> March, 1961 in his service records.

After the aforesaid recording the petitioner again started making communication with the Corporation and requested for supplying further documents by filing application under the Right to Information Act. Presently the petitioner contends that the Corporation practised fraud and have recorded a wrong date of birth in his service records. The petitioner has annexed a police verification roll of one Bijoy Chandra Konar to show that verification roll of the petitioner which ought to have been kept in his service records was not there.

The petitioner has averred in paragraph 10 of his writ petition that he agreed to accept the date of birth as 1<sup>st</sup> March, 1961. The petitioner is now trying to submit that 1<sup>st</sup> March, 1961 is not his actual date of birth and he was born much later.

The learned Advocate appearing on behalf of the Corporation submits that the date of birth of the petitioner was recorded in his service records on the basis of the entries appearing in his driving license.

The settled principle of law is that an employee cannot come forward seeking change in his service records at the fag end of his service tenure.

In the instant case, the petitioner has approached this Court not once but twice praying for correction of his date of birth in his service records.

The petitioner was provisionally selected as a temporary bus driver on contract basis in September, 2006 and he was made permanent in the year 2010. Service records of an employee are prepared on the basis of the documents submitted at the time of entry in service. The date of retirement is immediately calculated on the basis of the date of birth recorded in the service records. Neither the date of birth nor the date of retirement can be changed at the whims of either the employer or the employee.

As the date of retirement was approaching the petitioner approached this Court. The Court settled the issue once and for all and directed the Corporation to treat the date of birth of the petitioner as 1<sup>st</sup> March, 1961 as was appearing in his service records. It was categorically mentioned that the petitioner shall not come forward with any other representation for change of his date of birth in future. The petitioner accepted the said order. The employer acted upon the said order and recorded the date of birth of the petitioner as 1<sup>st</sup> March, 1961.

After accepting the earlier order it is not open for the petitioner to approach this Court once again praying for correction of his date of birth. The authorities have already acted in compliance of the order passed by the Court and recorded the date of birth of the petitioner as 1<sup>st</sup> March, 1961. The same shall be treated as final and binding in between the parties.

The contention of the petitioner that the employer practised fraud does not appeal to the court. The employer is the authority to maintain the records of all the employees and the allegation of practising fraud by the employer is not borne out of records.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties on compliance of all usual formalities.

( AMRITA SINHA, J.)