

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6743 OF 2021

Sanjay S/o Sursing Deore

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr. P.B. Patil(Borse), Advocate for the petitioner.

Mr. S.G. Karlekar, AGP for respondents No. 1 to 5.

**CORAM : S. V. GANGAPURWALA &
M. G. SEWLIKAR, JJ.**

DATE : 25th June, 2021.

PER COURT :

1. Mr. Patil, learned counsel for the petitioner submits that respondents No. 4 and 6 be directed to alter and correct the date of birth of the petitioner as 15.10.1965 instead of 01.06.1964. Learned counsel for the petitioner further submits that the petitioner entered into service in the year 1991. Subsequently, in the year 2017, the petitioner had been to his maternal uncle's village to meet his maternal uncle and during family gossip, his maternal uncle told him that petitioner was born in the year 1965 at Roje village. Petitioner told his uncle that his date of birth is recorded as 01.06.1964 in the Primary School Leaving Certificate. But his uncle confidently told the petitioner that he was born in 1965.

2. The petitioner initially approached respondent No. 5 and submitted application in October 2017 for issuance of his birth certificate. After scrutiny of birth and death record of Roje village, the office of respondent No. 5 issued true copy of the birth certificate to the petitioner on 16.10.2017. In the said certificate, the date of birth of the petitioner is clearly recorded as 15.10.1965. Upon obtaining the correct birth certificate, petitioner approached respondent No. 6 Head Master on 19.03.2019 for correction of his date of birth in the school record. Petitioner also submitted application with respondent No. 4. Respondent No. 4 orally refused to decide the application for alteration of date of birth of the petitioner. According to learned counsel for the petitioner, the date of birth of petitioner is required to be changed.

3. We have also heard learned AGP for the respondents.

4. The petitioner had joined service with respondent No. 6 in the year 1991. Petitioner, after a long slumber of 28 years, has filed an application for correction of date of birth in his service record.

5. In the present case, we would not have much concern with the correct date of birth of the petitioner. The question would be whether petitioner at the fag end of his service after 28 years should be allowed to change his date of birth. The date of birth recorded in the school record of the petitioner is 01.06.1964. The same date of birth is recorded in all the documents including his service book. The date of birth in the service book is recorded as per the representation of the petitioner. It cannot be said that a mistake was caused in recording the date of birth in the service book.

6. The petitioner may not get benefit of the birth certificate issued under Birth and Death Registration Act, 1969. Presumption will apply to the said certificate only and only if the entry taken therein is in consonance with the rules and provisions of the Birth and Death Registration Act, 1969. Said details are lacking in the birth certificate produced by the petitioner. In the absence such details, presumption cannot be attached to it. Reliance can be placed on a decision of Division Bench of this Court in the case of Gangadhar S/o Gonduram Tadme v. Trimbak S/o Govindrao Akingire and others reported in 2005(1) Mh.L.J. 94.

7. It is trite that if at all bonafide mistake has occurred in recording the date of birth of a candidate/employee in the service book, then within reasonable time, application is to be made for correction. As per rules, said application is to be made within five years. Petitioner in the present case has made application for correction after 28 years and that too when the petitioner is at the fag end of his service career.

8. Reliance on the judgment of the Apex Court in the matter of Narinder Kaur vs. Punjab and Haryana High Court and others reported in **2011 AIR SCW 1288** would be of no avail to the petitioner. Said judgment, on the contrary, holds that the application should be made within a period of two years from the date of entry to the Government service. Said matter had arisen under the Haryana Civil Services Rules. Under Maharashtra Civil Services Rules, application for correction of date of birth has to be made within five years from the date of entry in service . Alteration of date of birth of petitioner at this fag end of service will also adversely affect the other persons waiting below him in the seniority list. For this reason, the Statute and the rules require the application for correction of date of birth to be made within a stipulated period.

9. In the light of above, writ petition is dismissed. No costs.

(M. G. SEWLIKAR)
Judge

(S. V. GANGAPURWALA)
Judge

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