

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

156 WRIT PETITION NO.11316 OF 2021

PANKAJ JANARDHAN CHAUDHARI
VERSUS
THE CHIEF ENGINEER BHUSAWAL AND ANOTHER

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Mr.Naseer Shaikh, Advocate for the petitioner
Mr. P.K. Lakhotiya, AGP for the respondent/State.
Mr.R.H. Mewara, advocate for respondent no.1.

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**CORAM : S.V. GANGAPURWALA
AND**

S.G. DIGE, JJ.

DATE : 20th DECEMBER, 2021

PER COURT :-

1. The application of the petitioner for change of date of birth in service record is rejected.

2. Mr. Shaikh, learned counsel for the petitioner submits that the correct date of birth of the petitioner is 11.05.1972 and wrongly the date of birth is recorded as 11.05.1971 in service book. The learned counsel submits that the petitioner could get the knowledge of his correct date of birth only after he received the certificate under Birth and Death Registration Act on 7th September, 2019. Thereafter, he made application for correction of the date of birth in service book. On the birth certificate issued under the provisions of Birth and Death Registration Act, the date of birth of petitioner is 11.05.1972. The presumption is attracted to the same. In view of that the respondents be

directed to make necessary correction of the date of birth of the petitioner in service record.

3. It is further submitted that the petitioner has not approached at the fag end of service. 9 years of service still remained to be officiated.

4. The learned counsel for the respondents submits that as per the rules, the petitioner was required to apply within one year. The learned counsel relied upon the judgment of the Apex Court in the case of ***Karnataka Rural Infrastructure Development Limited V/s T.p. Nataraja and others in Civil Appeal No.5720 of 2021, dated September 21, 2021.***

5. We have considered the submissions. The Apex Court in the case of ***Karnataka Rural Infrastructure Development Limited (supra)*** has observed as under :-

"10. Considering the aforesaid decisions of this Court the law on change of date of birth can be summarized as under :

(i) application for change of date of birth can only be as per the relevant provisions/regulations applicable;

(ii) even if there is cogent evidence, the same cannot be claimed as a matter of right;

(iii) application can be rejected on the ground of delay and latches also more particularly when it is made at the fag end of service and/or when the employee is about to retire on attaining the age of superannuation."

6. It has been observed that even if there is cogent evidence on record, the same cannot be entertained against the rule.

7. The petitioner moved for correction of date of birth in the service record after about 24 years of service. The same was too late.

8. In that view of the matter, the contentions of the petitioner cannot be accepted. As such Writ Petition is disposed of. No costs.

9. We have only considered the petition to the extent of correction of the date of birth of the petitioner in service record and we have not determined as to what is correct date of birth of the petitioner.

(S.G.DIGE, J.)

SGA

(S.V. GANGAPURWALA, J.)