

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14147 OF 2018

Shobhana Dilip Kahane
age major, occ. Line Helper
R/o Post Tal Raver
Dist. Jalgaon

Petitioner

Versus

1. State of Maharashtra
Through Government Pleader
High Court,
Tq. & Dist. Aurangabad.

2. Maharashtra State Electricity Distribution
Company Ltd.
U & R Division Bhusawal
Through Executive Engineer
M.S.E.D.C. Ltd. Bhusawal
Office at Chopde Bldg, Tapinagar
Bhusawal

3. Jalgaon Municipal Corporation
Through its Commissioner
Golani Market,
Tq. & Dist. Jalgaon

Respondents

Mr. M.G. Patil, Advocate for the petitioner.
Mr. P.N. Kutti, AGP for respondent No. 1.
Mr. A.M. Gaikwad, Advocate for respondent No. 2.
Mr. V.D. Gunale, Advocate for respondent No. 3.

**CORAM : UJJAL BHUYAN &
M.G. SEWLIKAR, JJ.**

DATE : 7th May, 2021.

JUDGMENT : (Per M.G. Sewlikar, J.)

1. Rule. Rule made returnable forthwith.
2. Heard finally at the admission stage with the consent of the parties.
3. By this petition, the petitioner is seeking correction in her date of birth.
4. Factual matrix leading to this petition is that the husband of petitioner was an employee of respondent No. 2. He left for heavenly abode on 21st May 1998 whereafter petitioner applied for job on compassionate ground. On 28th May, 1999, petitioner was called for an interview. She tendered her proposal on 3rd August, 1999 for appointment.
5. After perusal of documents, respondent No. 2 authorised petitioner to undergo training at Industrial Training Institute (ITI) which she duly completed. Petitioner was appointed as Line Helper by the order dated 18th February, 2010. She realised that her date of birth had been incorrectly recorded in her service book as 1st June,

1961 whereas her correct date of birth is 9th May, 1964. Accordingly, petitioner made an application dated 9th November, 2010 to respondent No. 2 calling upon respondent No. 2 to rectify her date of birth. Petitioner was asked by respondent No. 2 to furnish proof about her date of birth as 9th May, 1964. She submitted relevant documents i.e. extract of date of birth. However, respondent No. 2 did not take any step despite making representations dated 6th December, 2010 and 25th January, 2011. Petitioner has, therefore, filed this petition for correction of her date of birth as 9th May, 1964 instead of 1st June, 1961. According to her, she will retire on superannuation on 31st May, 2021.

6. Respondent No. 2 filed its affidavit-in-reply through its Executive Engineer. Respondent No. 2 has contended that petitioner has furnished all the documents showing her date of birth as 1st June, 1961. Her School Leaving Certificate shows her date of birth as 1st June, 1961. In Proforma A, Charter Verification Certificate issued by the Superintendent of Police, Attestation Form filled by the petitioner, her date of birth is shown to be 1st June, 1961. It has further contended that within one year from the date of joining, this correction ought to have been sought by her. Since she did not seek

correction within one year, rectification as sought for by her cannot be permitted. Respondent No. 2 has, therefore, prayed for dismissal of the petition.

7. We have heard Mr. Patil, learned counsel for the petitioner, Mr. Kutti, learned AGP for respondent No. 1, Mr. Gaikwad, learned counsel for respondent No. 2 and Mr. Gunale, learned counsel for respondent No. 3.

8. Learned counsel Mr. Patil submitted that petitioner's date of birth is 9th May, 1964. However, wrongly in her service book, her date of birth came to be recorded as 1st June, 1961. He submitted that it was an obvious mistake. He submitted that petitioner has produced certificate of birth which indicates that she was born on 9th May, 1964. Despite producing this cogent evidence, respondent No. 2 did not take any step for rectification of date of birth of petitioner. He submitted that the father of petitioner has filed affidavit stating therein that date of birth of petitioner is 9th May, 1964. He, therefore, sought correction of date of birth of petitioner.

9. Learned counsel Mr. Gaikwad submitted that while

submitting application, petitioner has mentioned her date of birth as 1st June, 1961. He submitted that in the School Leaving Certificate, her date of birth is shown to be 1st June, 1961. While submitting application, she did not annex certificate of date of birth to show that her date of birth is 9th May, 1964 and not 1st June, 1961. He, therefore, prayed for dismissal of the petition.

10. Admittedly, in School Leaving Certificate, the date of birth of petitioner is recorded as 1st June, 1961. Respondent No. 2 has produced documents furnished by petitioner while applying for the job on compassionate ground. These documents show that on the Attestation Form, date of birth of petitioner is shown as 1st June, 1961. In Proforma A, she mentioned her date of birth as 1st June, 1961. Even in the training certificate issued by ITI, her date of birth is shown as 1st June, 1961. She has produced birth certificate which shows that her date of birth is 9th May, 1964. This certificate, however, shows that it was issued on 12th May, 2008. It appears that this birth certificate was not annexed with the application for appointment on compassionate ground. A specific query was made by us to learned counsel for petitioner as to when intimation of birth of petitioner was given to Municipal Council, Raver. He submitted

that this intimation was given on 12th May, 2008. This clearly shows that petitioner is seeking correction of date of birth only after death of her husband and at the time of making application for appointment on compassionate ground. It appears that till then she did not make any attempt to get her date of birth corrected. Things would have been different if correction in date of birth had been sought before death of her husband. But she did not do that. Therefore, on this backdrop, especially when intimation of date of birth was given after death of her husband, it cannot be said that date of birth of petitioner is 9th May, 1964 and not 1st June, 1961. That apart there is inordinate delay in filing the writ petition. The last representation of the petitioner for correction of her date of birth was made on 25th January, 2011 whereas the writ petition was filed in the year 2018. There is no explanation for such delay. In this view of the matter, we are not inclined to entertain the writ petition. Petition is also bereft of any merit. Hence, it is dismissed with no order as to costs. Rule is discharged accordingly.

(M. G. SEWLIKAR)
Judge

(UJJAL BHUYAN)
Judge