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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.753 OF 2019

Mahadeo C. Gaikwad

...Petitioner

V/s.

State of Maharashtra & Ors.

...Respondents

Ms.Rekha Musale with Ms.Sangeeta Survase for the Petitioner.

Mr.P.P. Kakade, G.P. with Mrs.P.J. Gavhane, AGP for the State –
Respondent Nos.1 to 3.

**CORAM : R.D. DHANUKA &
R.I. CHAGLA, JJ.**

DATE : 18TH AUGUST, 2021.

P.C. :-

1. Rule. Learned AGP waives service for all the respondents. By consent of the parties, the petition is heard finally.
2. By this petition filed under Article 226 of the Constitution of India, the petitioner is seeking direction against the respondents no.2 to proceed with the file of the petitioner in pursuance of the letter dated 13th / 14th July, 2017 and decide the representation of the petitioner dated 20th June, 2017 regarding the date of birth.
3. The petitioner had earlier made a representation to the respondents for correction of birth date from 1st June 1959 to 17th

September, 1962 in service record. Since no action was taken by the respondents, the petitioner approached this Court by filing Writ Petition No.3271 of 2017. This Court by an order dated 16th June, 2017 permitted the petitioner to withdraw the said writ petition with liberty to approach the respondents for redressal of his grievance.

4. Thereafter the petitioner by representation dated 20th June, 2017 referred to an order passed by this Court and made a representation to the respondent no.3 for considering the case of the petitioner with regard to the change of birth date.

5. The respondent no.3 addressed a letter annexed to the respondent no.2 vide communication dated 13th / 14th July, 2017 for considering the representation of the petitioner. Since the representation of the petitioner had not been decided by the respondents, the present writ petition has been filed.

6. Learned counsel for the petitioner submitted that the representation dated 9th January, 2017 followed by reminder dated 20th June, 2017 to the respondent no.3 have not been decided till date. She referred to the communication dated 13th / 14th July, 2017 to the respondent no.3 from the respondent no.3 to the respondent no.2 to decide the said representation. It was in conjunction with the decision to be taken on the said representation and the respondent no.3 to take the said decision. He submits that an appropriate

direction be issued to the respondent no.2 to decide the said representation with regard to change in birth date of the petitioner.

7. Having considered the submission, it appears that the representation dated 9th January, 2017 which had not been considered by the respondent no.3 was the subject matter of the Writ Petition No.3171 of 2017 filed by the petitioner. This Court by an order dated 16th June, 2017 had granted leave to the petitioner to withdraw the said writ petition with liberty to the petitioner to approach for redressal his grievances. The petitioner had thereafter sent the reminder dated 20th June, 2017 to the respondent no.3 for deciding the representation dated 9th January, 2017.

8. The respondent no.3 had thereafter by a communication dated 13th / 14th July, 2017 called upon the respondent no.2 to process the file of the petitioner and decide the representation with regard to the change in birth of the petitioner. The respondent no.2 however has not decided the representation of the petitioner dated 9th January, 2017. Considering this position, this Court by an order dated 16th June, 2017 had granted liberty to the petitioner to address his grievance before the respondents. It would be appropriate to pass the following order :-

a). The respondent no.2 shall process the file of the petitioner pursuant to the letter dated 9th January, 2017 with regard to

the date of birth of the petitioner within a period of eight weeks from today by granting hearing to the petitioner.

b). The decision taken the representation of the petitioner shall be communicated to the petitioner by the respondent no.2 within a period of one week thereafter. It is made clear that salary and other service benefits of the petitioner till the date of retirement i.e. 31st May, 2017 shall be paid by the respondents within a period of eight weeks from today.

c). The writ petition is accordingly disposed of in aforesaid terms.

d). Rule is made absolute in aforesaid terms. There shall be no order as to costs.

(R.I. CHAGLA, J.)

(R.D. DHANUKA, J.)