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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2278 OF 2021

Mr. Shamrav Bhagwat Pandav	...Petitioner
<i>Versus</i>	
Central Government of India & Anr.	...Respondents

Mr. Suryakant Pise for the Petitioner.
Mr. K.P. Anilkumar for the Respondent No. 2

CORAM : K.K. TATED &
R.I. CHAGLA, JJ.
DATE : 29 June 2021.

ORDER :

1. Heard the learned Counsel for the parties.
2. By this Writ Petition filed under Article 226 of the Constitution of India, the Petitioner is seeking directions against Respondents to make the correction of birth date of the Petitioner as 30th April, 1962 instead of 16th June, 1961 in service records.
3. The learned Counsel Mr. Pise appearing for the Petitioner submits that earlier the Petitioner made several correspondence but the Respondents failed and neglected to

take appropriate action. Hence he has filed present Petition on 21st June, 2021. During the course of argument, the learned Counsel for the Petitioner submits that the Petitioner is retiring tomorrow i.e. 30th June, 2021. Hence there is urgency.

4. On the other hand, the learned Counsel Mr. Anilkumar appearing on behalf of Respondent No. 2 vehemently opposed the Petitioner. He submits that the Petitioner has approached this Court at the fag end of his retirement. This is not permitted. In support of this, he relies on the judgment of this Court in the matter of ***Kakasaheb Shidu Mhaske V. Municipal Corporation of Greater Mumbai & Ors.***¹.

Paragraph 5 of the said judgment reads thus:-

“5. It is a common case of the parties before us that there is no rule or instructions framed by the Corporation which controls the alteration or correction of date of birth. Thus, the present case has to be governed by the general principles. Undisputed facts which emerge from the record show that the petitioner had declared his date of birth as 1st June, 1949 at the time of his entry into service. The petitioner was an educated person and was fully aware of the consequences of an undertaking given to his employer at the time of his entry into service. The undertaking given by the petitioner in fact debarred him from claiming any alteration in the date of birth given in his service

¹ 2007(4) Mh.L.J. 837

record. Usefully, at this stage reference can be made to the relevant part of the undertaking given by the petitioner under his signature.

“That the date of birth as stated in the documentary evidence produced by me is correct. The date of birth (i.e. the date, month and year) is correctly recorded in my service Book/sheet as per the documentary evidence. I shall, therefore, not come forward with a request to change the date of birth as recorded in the Service Book/Sheet.”

In addition to the above undertaking, the petitioner had also given a school certificate showing the date of birth as 1st June, 1949 and entry to the school in the year 1955. The story now put forward by the petitioner that in 2006 his maternal uncle disclosed him the fact that no female child was born and the petitioner was born on 24th February, 1951 and not on 1st June, 1949, is somewhat difficult to believe. In his long life, the petitioner must have visited his village, his parents and relations. The version of the petitioner suffers from the element of inbuilt contradictions and is not beyond the limit of suspicion. The steps taken by the petitioner in taking out a publication in the gazette by producing self-serving documents before the other authorities and getting the correction made in the records would in no way bind the Corporation. No doubt, under Section 15 of the Registration of Births and Deaths Act, 1969, the competent authority has the discretion to correct and cancel the entries in the said registers. This is a power which is vested in the authorities and they can exercise their discretion in accordance with law. The Corporation was not a party before the Registrar for correction of the date of birth. In fact, there was no occasion for the same. By these administrative proceedings taken by the petitioner by producing self-serving documents, the Corporation cannot be compelled in law and fact to alter the date of birth of the petitioner in the service record. According to the petitioner, he had come to know from his maternal uncle, who was stated to be 75 years old, in April,

2006, but still he waited and created documents in his own favour and then moved the Corporation only in November, 2006.”

5. He also relies on the judgment of the Apex Court in the matter of *Bharat Coking Coal Ltd. & Ors. Vs. Shyam Kishore Singh*². On the basis of these submissions and authorities, the learned Counsel for Respondent No. 2 submits that there is no question of entertaining the present Petition at the fag end of his retirement.

6. We heard both sides at length. When we declined to entertain the present Petition in view of the law laid down by this Court and Apex Court as stated above, the learned Counsel for the Petitioner submits that the Petitioner may be permitted to withdraw the present Petition. Same is permitted. Hence the following order:-

- (i) The Writ Petition is disposed of as withdrawn with no order as costs.

[R.I. CHAGLA J.]

[K.K. TATED, J.]