

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 2088/2021

(Amol Bhimraoji Dudhe vs. The General Manager, MSRTC Office, Mumbai and another)

Office Notes, Office Memoranda of
of directions and Registrar's orders

Court's or Judge's order

Mr. Sumit B.Gandhe, Advocate for the petitioner

Ms. Bhagyasri Reddy, Adv.h/for Mr. V.H. Kedar, for respondent nos. 1 & 2

**CORAM : SUNIL B. SHUKRE &
ANIL L. PANSARE, JJ.**

DATED : 26th October, 2021.

Heard.

2. Contention is that at the time of submitting online application form for selection of the petitioner for the post of Clerk-cum-Typist, the petitioner had, by mistake, mentioned the date of birth as 3rd February, 1999 and this mistake was noticed at the time when the petitioner was called for verification of the documents. When the petitioner realised that he had wrongly mentioned the date of birth, he expressed the desire to correct the same as mentioned in the online application. After all, the petitioner had secured 86.96 marks in the written examination and his name had figured in the selection list from the open category. The petitioner, accordingly, made a representation to the respondents on 16.05.2018. However, the representation was never finally decided and it is stated that it is still pending with the respondent no.1, as the two other members of the Selection Committee have formed the opinion quite opposite to each other,

one favouring the petitioner and the other going against the petitioner.

3. We would have thought of directing the respondent no.1 to decide the representation of the petitioner dated 16.05.2018 in accordance with law, especially when one opinion out of two opinions had been recorded in favour of the petitioner. But, it appears that this will not be possible as the condition mentioned in the advertisement is quite clear on this aspect of the matter. As per the condition mentioned in paragraph 6, change of date of birth or correction of the date of birth, change of the post applied or, and change of the caste/tribe category cannot be sought and is not permitted. If this is so, we do not think that this petition can be entertained and any direction to the respondent no.1 for deciding the representation dated 16.05.2018 can be given.

4. Learned counsel for the petitioner, however, has a different opinion. He submits that in 2019 selection process, such change of date of birth has been permitted by the Selection Committee.

5. In support, he invites our attention to the communication dated 11th September 2019, available at page 84 of the record of the petition. It is true that the change of date of birth of a candidate has been permitted as per this communication, but, this change was allowed to be carried out not

in the present selection process which is of the year 2017 but in the selection process which was about two years after this selection process. The petitioner has not averred that the conditions of the selection process 2019 were identical to the conditions of 2017 selection process and that in the year 2019 selection process also, there was a condition that no change of date of birth, change in post, etc. would be permitted and yet change of date of birth was allowed by the Selection Committee. The terms and conditions of the selection process 2019 are also not placed on record. The learned counsel for the petitioner has no information regarding the terms and conditions of 2019 process insofar as they are relevant for deciding the issue involved in the present petition. This being the position, we do not think that any reliance can be placed upon the communication dated 11th September, 2019 and the action taken by the respondent which has been relied upon by the petitioner in this case.

6. In the result, we find no merit in the petition. If the prayer of the petitioner is granted, in our considered view, it would certainly amount to interference in the selection process and manipulating the terms and conditions on the basis of which 2017 selection process was carried out and if this is allowed to happen there would be possibility of causing of injustice to some of the candidates who may have committed the same mistake but have not approached this Court.

7. In the result, the Petition is summarily rejected. No costs.

JUDGE

JUDGE

sahare