

14. 16.06.2022
Ct. No.6
Tanmoy

M.A.T. 264 of 2020

**Md. Abdul Khalek
-Versus-
The State of West Bengal & Ors.**

**With
IA No: C.A.N. 1 of 2020 (Old No: C.A.N. 2699 of 2020)**

Mr. Golam Mastafa, Adv.,
Mr. Samirul Sardar, Adv.

...for the appellant.

Mr. Susanta Pal, Adv.,
Mr. Ananda Dulal Sarkar, Adv.

...for the State respondents.

By consent of the parties, the appeal and the connected application are taken up together for hearing.

The writ petitioner approached the learned Single Judge assailing an order dated March 26, 2007, passed by the Additional District Magistrate (ZP), Murshidabad, whereby the petitioner's representation for change of his date of birth in the Service Book from 01.08.1936 to 20.08.1947, was rejected and it was directed that the petitioner's service as *Gram Panchayat Karmee* of Gurudaspur *Gram Panchayat*, should be terminated immediately with effect from 31.07.1996 i.e., when he attained the age of sixty (60) years.

The writ petitioner/appellant had earlier approached this Court praying for a direction on the respondent Authorities for changing his date of birth as recorded in the Service Book. On the basis of an *interim* order passed in the first writ petition, the petitioner continued in service beyond the age of sixty (60) years. He also drew his salary. On the first writ petition, the prayer of the appellant for change of date of birth was not allowed.

The appellant filed a second writ petition with the same prayer. That writ petition was disposed of by granting liberty to the appellant to make representation before the District Magistrate, Murshidabad. The appellant made such representation, which was rejected by the Additional District Magistrate (ZP), Murshidabad, by the order dated March 26, 2007, which was impugned before the learned Single Judge in the present proceedings.

The learned Single Judge dismissed the writ petition on the ground of suppression of material facts. The learned Judge recorded that the writ petitioner has suppressed that by an earlier order dated January 4, 2007, his prayer for change of date of birth was not allowed by this Court.

We have gone through the writ petition. The petitioner has pleaded in paragraph 18 of the writ petition that there were two earlier writ petitions and the order dated January 4, 2007 has also been mentioned.

However, learned Advocate for the appellant says that inadvertently, copy of the order dated January 4, 2007 was not annexed to the writ petition.

We do not find that there was any suppression on the part of the writ petitioner/appellant. However, we are unable to grant any relief to the writ petitioner/appellant. The order of the Additional District Magistrate is a reasoned order. After such a long period of time, it may not be possible for the Officers in the Administration to trace out the relevant records on the basis of which the petitioner's prayer could be considered. We do not find any infirmity in the order impugned before the learned Single Judge. The Writ Court is not generally concerned with the merits of a decision of an Administrative Authority. The Writ Court sees whether or not there was any infirmity in the decision making process. In the present case we do not find any illegality or breach of natural justice or any other ground which may persuade us to exercise the power of judicial review. Accordingly, although we clarify that there was no suppression on the part of the writ petitioner/appellant, we see no reason to interfere with the order under appeal.

The appeal being M.A.T. 264 of 2020 and the connected application being IA No: C.A.N. 1 of 2020 (Old No: C.A.N. 2699 of 2020) are accordingly dismissed.

Let urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with all necessary formalities.

(Rai Chattopadhyay, J.)

(Arijit Banerjee, J.)