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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6788 OF 2019
WITH
INTERIM APPLICATION NO.2272 OF 2022
IN
WRIT PETITION NO. 6788 OF 2019**

Prashant D. Ranpise

..... Petitioner

Vs.

Pune Municipal Corporation & Ors.

..... Respondents

Mr. R. D. Soni I/b. Ms. Rekha D. Satpute for the Petitioner
Mr. Rhishikesh Pethe for Respondent No.1
Mr. N. C. Walimbe, AGP for the State

**CORAM: S.V.GANGAPURWALA &
R.N. LADDHA, JJ.**

DATED : OCTOBER 7, 2022

P.C.

1 The Petitioner was employed with Pune Municipal Corporation as a Fireman on or about 23rd June 1987. The Petitioner claims to have given an Application for change of date of birth on 8th May 2008. On 14th May 2008 Respondent No.1 replied that as the Application is not given within five years, the date of birth cannot be changed.

2 The learned Counsel for the Petitioner strenuously contends that Rule 38(2)(f) of the Maharashtra Civil Services (General Conditions of Service) Rules, 1981 was amended in December 2008,

as such, the same would not apply to the Application filed by the Petitioner prior to the amendment. There is no impediment for the Respondent to consider the Application of the Petitioner for change of date of birth in the service book on its own merits. The learned counsel, to buttress his submission, relies upon the judgment of the learned Single Judge of this Court in the case of ***Ashok s/o. Pralhad Meshram Vs. The Head Master, Zilla Parishad High School, Bhandara & anr. 2015 (2) ALL MR 622.***

3 The learned Advocate further submits that the entry of the correct date of birth i.e. 28th January 1965 is made by the competent authority under the Registration of Birth and Death Act. The presumption is attached to the same. According to the learned Counsel, it was incumbent upon the Respondent to consider the Application of the Petitioner on merits.

4 We have heard the learned Advocate for the Respondents.

5 The factual matrix does not seem to be debated. The Petitioner was employed as a Fireman on 23rd June 1987. The date of birth is recorded as 28th January 1964 in the service book. The Petitioner, for the first time, made an Application in May 2008 for correction of date of birth recorded in the service book. The said Application is rejected on 14th May 2008 by Respondent No.2.

6 The date of birth is recorded in the service book of the Petitioner on the basis of the documents produced by the Petitioner at the time of entering the service. The Petitioner produced the school record. On the basis of all the documents produced by the Petitioner i.e. the transfer certificate and the 10th standard documents, the date of birth is recorded as 28th January 1964. It is not the case of the Petitioner that mistake was committed while recording the correct date of birth in the service book contrary to the documents produced by the Petitioner. Even assuming that the amended provision may not apply to the Petitioner, still the Petitioner could have made the Application within reasonable time. The Application is made after long slumber of 21 years. Moreover, the Application is immediately rejected within eight days from the date of filing the Application. The Petitioner chose to challenge the same only after 10 years. According to the learned counsel for the Petitioner after rejection of the first Application, second Application was made, that may not arrest the time.

7 Be that as it may, as the Application was not made within a reasonable time, the Respondents were within their right to reject the said Application. The change of date of birth has its own consequences.

8 In all the documents, such as the seniority list and all other documents, the date of birth at the time of entering the service is recorded. Even certain concessions are given after crossing 45 years of age such as exemption from passing departmental examination or otherwise. At that time, the entry of date of birth in the service book is considered.

9 In light of the above, we are not inclined to consider the Writ Petition.

10 The Writ Petition, as such, is disposed of. No costs.

10 In view thereof, the Interim Application also stands disposed of.

(R.N. LADDHA,J.)

(S.V. GANGAPURWALA, J.)