

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 1095 OF 2021

Vitthal Keshav Wasekar

Vs.

The Divisional Commissioner, Nagpur Division, Nagpur and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. V.N. Morande, Advocate for petitioner.
Mrs. M.A. Barabde, AGP for respondents/State.

CORAM : MANISH PITALE J.

DATE : 20.04.2022.

By this writ petition, the petitioner has challenged order dated 01.01.2021 passed by the respondent No.1-Divisional Commissioner, whereby an appeal filed by the petitioner has been rejected, as a consequence of which order dated 10.02.2020 declaring the petitioner as having retired from service with effect from 12.02.2020 on completion of 60 years of age, has been confirmed.

2. The petitioner was working as a Police Patil, Village Gandhinagar, Tahsil-Korpana, District – Chandrapur. His initial appointment was in the year 1988 and subsequently renewals were granted in his favour. The respondent treated the petitioner as retired with effect from 12.02.2020. After about five

months of having been retired from the said post of Police Patil, the petitioner for the first time submitted a representation before the Sub-Divisional Officer, claiming that his date of birth was 12.02.1962 and therefore, he could have been retired from service on attaining the age of 60 years only on 11.02.2022. A School Leaving certificate was annexed with the said representation. Since, no relief was granted to the petitioner, he filed the aforesaid appeal before the respondent No.1-Divisional Commissioner under the provisions of the Maharashtra Village Police Patil's Order, 1968.

3. The respondent No.1, upon considering the material on record, found that even in the School Leaving certificate upon which the petitioner had placed reliance, the name of the father appeared to be different from the name of the father of the petitioner found in the records, including the order of appointment and subsequent orders of renewal. On this basis, the appeal was rejected.

4. Mr. Morande, learned counsel appearing for the petitioner, submitted that the chart made available by the respondents during the proceedings before the respondent No.1 demonstrated that even as per the details of persons appointed on the

aforesaid post in the record of the respondent, the date of retirement of the petitioner was recorded as 11.02.2022, which was correct as the date of birth of the petitioner was 12.02.1962.

5. It was submitted that in the said chart, there was a typographical error inasmuch as the date of birth of the petitioner was recorded as 12.02.1960. It was emphasized that the age of retirement being 60 years, there was obvious error in the aforesaid chart.

6. It was further submitted that the School Leaving certificate was placed on record, which recorded the date of birth of the petitioner as 12.02.1962 and that the said document was not appreciated in the correct perspective by the respondent No.1.

7. On the other hand, Mrs. Barabde, learned Assistant Government Pleader, appeared on behalf of the respondents and submitted that while order dated 10.02.2022 recorded that the petitioner stood retired with effect from 12.02.2020 on completion 60 years of age, the petitioner did not immediately raise any dispute regarding the same.

8. Admittedly, the first representation was filed after about five months on 21.07.2020. It was further submitted that the respondent No.1 found that there was discrepancy in the name in the School Leaving certificate and the name of the petitioner as found in the records of the respondent. On this basis, it was submitted that the impugned order did not deserve interference.

9. This Court has considered the material on record. Admittedly, in the order whereby the petitioner was appointed on the said post in the year 1988, his name was stated as Vitthal Keshav Wasekar. In the orders of renewal also his name was stated as Vitthal Keshav Wasekar. The record also shows that by order dated 10.02.2020, the petitioner stood retired with effect from 12.02.2020. This Court is of the opinion that if the petitioner was clear about the fact that he would be completing 60 years of age on 12.02.2022, he would have immediately raised dispute about having been retired with effect from 12.02.2020. Even if the claim of the petitioner is to be accepted that the order dated 10.02.2020 was actually served on him in May 2020, the record shows that the first representation was made by the petitioner only on 21.07.2020.

10. Apart from this, the respondent No.1 has found that the name of the person in the School Leaving certificate, upon which the petitioner has placed reliance, does not fully match with the name of the petitioner as found in the records of the respondents.

11. It is also an admitted position that the said School Leaving certificate was produced for the first time by the petitioner after raising the controversy regarding his date of retirement. There is nothing to indicate that the petitioner raised any dispute about his date of birth during his entire service or his date of retirement immediately after being retired with effect from 12.02.2020.

12. A perusal of the School Leaving certificate does show that it pertains to Vitthal Kesu Wasekar, while the name of the petitioner in the records of the respondent is Vitthal Keshav Wasekar. Considering the fact that the controversy was raised on behalf of the petitioner after he stood retired, the discrepancy found in the said document assumes significance. In any case, there is nothing to show that the petitioner had placed on record any document indicating his date of birth while he was appointed in the year 1988 or thereafter.

13. In these circumstances, this Court is not convinced that a case is made out on behalf of the petitioner for interference in the impugned orders.

14. Accordingly, the writ petition is dismissed. No order as to costs.

JUDGE

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