

83.
30.3.2023
S.D.

W.P.A. 2383 of 2023
Ashoke Mahata @ Asoke Mumar Mahata
Vs.
The State of West Bengal & Ors.

Mr. Lal Ratan Mondal
Mr. Dilip Kumar Sadhu
... For the Petitioner

Mr. Raja Saha
Mr. S.P. Lahiri
...For the State

Mr. Mondal, learned counsel appears on behalf of the petitioner and files a supplementary affidavit in Court today. Such supplementary affidavit is retained with the records.

The petitioner's grievance is that he has been disengaged from service with effect from November 17, 2022. However, the Aadhaar Card of the petitioner shows that his date of birth was April 10, 1971 and, therefore, he would attain the age of 60 years on April 9, 2031. Therefore, the petitioner's disengagement from service on November 17, 2022 was illegal and arbitrary.

Mr. Lahiri, learned counsel appearing on behalf of the State respondent submits that the date of birth of the

petitioner as per his own application form was September 17, 1962. Therefore, the petitioner was held to be disengaged and his name struck off from the list maintained for District Home Guards Volunteer's Force from September 12, 2022 onwards upon reaching the age of 60 years. He submits that the petitioner had two Aadhaar Cards. One reflected the date of birth of the petitioner as September 12, 1962 and the other reflected the date of birth of the petitioner as April 10, 1971. The aforesaid fact was also not brought to the attention of this Court by way of pleadings in the writ petition.

Considering the submissions of the parties and the materials placed on record, this Court finds that the date of birth reflected in the application form was September 12, 1962. The same date of birth has been reflected in one of the Aadhaar Cards of the petitioner. Therefore, the submission of Mr. Mondal with regard to the fact that the petitioner had only put his signature in the application form without application of mind cannot be accepted. Furthermore, it should have been brought to the notice of the Court that the petitioner has two Aadhaar Cards even if a mistake was subsequently corrected.

Also from the Election Commission's Card annexed at page 11 of the supplementary affidavit filed on behalf of the

writ petitioner, this Court finds that the petitioner has declared his age to be 22 years as on January 1, 1995.

Even assuming that the petitioner was born on April 10, 1971, the petitioner could not have been aged 22 years on January 1, 1995.

Relying on a document annexed at page 6 of the Supplementary Affidavit, Mr. Mondal appearing on behalf of the petitioner submitted that the petitioner was aged about 37 years in 2011. In the event, the petitioner was born on April 10, 1971, he could not have been aged 37 years on January 25, 2011. This Court finds that there are various infirmities in the date of birth of the petitioner and the statements made on behalf of the petitioner with regard to his date of birth are contradictory.

In such view of the matter, this Court is of the view that there are serious disputed questions of fact in the present writ petition and the same cannot be considered in a writ petition.

In the light of the above discussions above, **W.P.A. 2383 of 2023 is dismissed.**

All parties shall act on the server copy of this order duly downloaded from the **website** of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all the formalities.

(Lapita Banerji, J.)