

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1159 OF 2023

Ashok Babanrao Pawar

.. Petitioner

Versus

The Ahmednagar District Central
Cooperative Bank Ltd. through its
Executive Director

.. Respondent

Shri Sharad V. Natu, Advocate for the Petitioner.

Shri V. R. Dhorde, Advocate for the Respondent.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 30TH JANUARY, 2023.

FINAL ORDER :

. By this petition, the petitioner is aggrieved by the order dated 16.01.2023 passed by the Industrial Tribunal below Exhibit U-2 rejecting the petitioner's application for interim relief to continue the petitioner in service and not to retire him prior to decision of Complaint (ULP) No. 39 of 2021.

2. Briefly stated facts of the case are that the petitioner entered into service of the respondent-bank in the year 1991 and is due to retire on 31.01.2023. It is the case of the petitioner that his date of birth was 31st October, 1966, but has been incorrectly recorded as 05.01.1963.

3. Learned counsel appearing for the petitioner submits that, the delay if any in approaching the Industrial Tribunal is not due to any inaction on the part of the petitioner. He would further submit that on 16th December, 2020, the petitioner had made a

representation to the respondent-bank for correction of the date of birth, but there is no acknowledgment as it is policy of the bank not to give acknowledgment on the representation. He would further submit that later on another representation was given on 02nd August, 2021, which was rejected by the bank on 24th November, 2021, which gave rise to cause of action to file the Complaint (ULP) No. 39 of 2021. He would submit that the Industrial Tribunal has rejected his application on the ground that the petitioner has not approached the respondent-employer for correction of date of birth in office record within reasonable time, although having knowledge of correct date of birth since the date of entry in the service. In support of his contention the learned counsel relies upon decision of this Court in the case of **Prabhat Kumar Titus Vs. Western Coalfield Ltd. and others** reported in ***2021(6) Mh.L.J. 706***.

4. I have considered the submissions of the learned counsel for the petitioner.

5. The settled position of law, which has been enunciated by several pronouncements of this Court as well as the Apex Court that an employee cannot be allowed to raise an objection as to his date of birth at the fag end of his career. If there is any dispute as far as date of birth in the service record is concerned, it is for the employee to make representation within a reasonable time. In the present case, the petitioner entered the service of the respondent-bank in the year 1991 and as submitted by the learned counsel for the petitioner the representation if any was filed for the first time on 16th December, 2020. Upon a query being made by this Court as to the copy of acknowledgement of

said representation, the learned counsel for the petitioner submits that the averments to that effect have been made in the complaint filed before the Industrial Tribunal and is also reflected in the representation dated 02nd August, 2021. It is surprising that if, it is the case of the petitioner that no acknowledgment is been given by the bank and hence the petitioner is unable to place on record the earlier representation, how the representation of 02nd August, 2021 contains an endorsement of the bank. It is apparent that for the first time on 02nd August, 2021 representation has been made for correction of date of birth. It is not expected that a correction in the date of birth would be considered at the fag end of the career. The reliance placed by the learned on the decision of this Court in the case of **Prabhat Kumar Titus Vs. Western Coalfield Ltd. and others** (supra) is distinguishable in as much as in that case representation was made ten years prior to the date of retirement, which application was entertained considering that genuineness of matriculation certificate was examined and the case of the petitioner therein was recommended for correction of the date of birth. In the facts of that case almost prior to ten years prior to retirement inspite of recommendation no decision was communicated to the petitioner and this Court held that delay would not be attributable to the case. In the present case, there is no record to show that any representation was made till the year 2021.

6. Considering the settled position of law the application by the Petitioner for correction of date of birth at the fag end of the career cannot be countenanced. For the reasons above, I do not consider that this is a fit case to interfere in the impugned order.

Writ petition is devoid of merits and stands dismissed without any order as to costs.

[SHARMILA U. DESHMUKH, J.]

bsb/Jan. 23