

Court No. 2

09.4.2025

(Item No. 2)

(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 4656 of 2025

Mrs. Sabita Sen

VS

The State of West Bengal & Ors.

Mr. Anirban Bose

Mr. Chandrachur Biswas

Mr. Satyajit Senapati

.... For the petitioner

Ms. Jhuma Chakraborty

Ms. Munmun Tewary

.... For the State

Mr. Chandrachur Bose, learned advocate being
appears for the petitioner.

Ms. Jhuma chakraborty, learned senior
Government advocate with Ms. Munmun Tewary,
learned advocate appears for the State.

The petitioner had joined in her employment in
the year **1987** after submission of all the relevant
records and documents. The employer have issued
identity card in favour of the petitioner at **page 26** to
the writ petition. The date of issuance was **April 8,**
2005 which shows that the date of birth of the
petitioner was recorded as **October 16, 1967**. The
petitioner submits that, this was the correct recording
of the date of birth. The employment of the petitioner
became permanent in the year **2009**. The necessary
service book was prepared and maintained by the
employer since then. Subsequently, during

verification of the service book it was found by the employer that the date of birth of the petitioner actually was **October 16, 1967** in place and stead of **October 16, 1965** as was recorded in and informed to the petitioner by the employer through its communication dated **January 3, 2024** at **page 24** to the writ petition. Accordingly, the employer applied for correction of the recording of date of birth in the service book to be as **October 16, 1967** when the Special I.G. of Correctional Service, West Bengal passed its impugned order dated **September 24, 2024** at **page 30** to the writ petition, with the following observation and finding:

“Sub : Regarding prayer for change in the Date of Birth in r/o Smt. Sabita Sen, Female Warder, Arambagh SCH, presently deputed at Burdwan CCH.

Ref : His office Memo No. 5118/EB(A) dated 31.08.2024.

With reference to the above, the undersigned is directed to inform him that the prayer for change in Date of Birth in r/o Smt. Sabita Sen, Female Warder, Arambagh SCH, presently deputed at Burdwan CCH is considered and rejected vide Finance Department, Audit Branch, Govt. of West Bengal No. 707-F(P) dated 24.01.2012(enclosed), on the ground of limitation on time period of 05(five) years from the date of

joining during which any prayer for change in date of birth of a Govt. employee can be entertained.

Furthermore, he is requested to explain his conduct in ignoring the GO and making changes in Service Book of the incumbent and to reverse the changes done after obtaining an approval from the DIG of Correctional Services (Burdwan), West Bengal.

The original Service Book and documents of Smt. Sabita Sen, Female Warder, Arambagh SCH, presently deputed at Burdwan CCH is being returned herewith for taking necessary action from his end.”

Assailing the said impugned decision the petitioner has filed the instant writ petition.

Mr. Chandrachur Biswas, leaned counsel appearing for the petitioner submits that, at the time of appointment the petitioner had disclosed and submitted all the necessary records where upon due scrutiny and verification was held and only then the petitioner was appointed. The petitioner was also made permanent on the basis of such records and the service book was also prepared accordingly. For the first time from the said communication dated **January 3, 2024**, the petitioner came to know that the

employer has raised a dispute with regard to the Date of Birth of the petitioner and the matter was referred before the Special I. G. when the impugned order was passed.

Referring to the memorandum dated **January 24, 2012** issued by the State at **page 31** to the writ petition, it is submitted on behalf of the petitioner that, if any, such correction was required to be made, the State has provided a time frame for a period of five years from the joining in the Government service. In the facts of the instance case the petitioner for the first time came to know about the dispute regarding her date of birth from the said communication dated **January 3, 2024** which was few decades after the joining of service. Therefore, the said Government Order/Memorandum would not apply in the facts of this case. The reasons, therefore, shown rejecting the plea to accept the date of birth of the petitioner to be **October 16, 1967** is not tenable in law, bad in law and should be set aside.

Ms. Jhuma Chakraborty, learned senior State advocate has placed a report dated **April 2, 2025** issued under the seal and signature of the **Officer-in-Charge, Law Cell, Directorate of Correctional Services, West Bengal**, the same is taken on record. Copy has been supplied to the learned counsel for the petitioner in Court today.

The portions from the report where upon learned State counsel has placed much reliance are quoted below:

“5 i.) Discrepancy regarding the date of birth of Smt. Sabita Sen@Kundu:

- a. In the Primary School Leaving Certificate submitted by the Petitioner of this instant WPA No. 4656 of 2025 (attached in the Service Book and records) issued on 16.11.1985 by the Head Master of Akhlakhi Free Primary School, the date of birth of Smt. Sabita Sen Kundu is 16.10.1967.*
- a) Another Primary School Leaving Certificate (attached in the Service Book and records) was issued on 12.06.2001 by the Head Master of Akhlakhi Free Primary School (which was produced by the Petitioner of this instant Writ Petition during the joining of the petitioner) wherein the date of birth of the Petitioner is recorded as 16.10.1965.*
- b) Another Primary School Leaving Certificate submitted by the petitioner of this instant Writ Petition (attached in the Service Book and records) which was issued on 08.09.2020 by the Head Master of Akhlakhi Free Primary School, the date of birth of Sabita*

Sen Kundu is recorded as 16.10.1967.

c)In the Police Verification Roll (attached in the Service Book and records) which was verified by the Superintendent of Police, District Intelligence Branch, Hooghly Rural District, conducted during the year 2021, the date of birth of the Petitioner is 16.10.1967.”

Learned senior State counsel further submits that, multiple sets of records were produced by the petitioner and after scrutiny of those records, the authority came to a finding that the recording of date of birth to be as **October 16, 1967** could and should not have been done, as the contrary record shows the same to be **October 16, 1965**.

She further submits that, the impugned decision dated **September 24, 2024** relying upon the said Government Memorandum dated **January 24, 2012** was a detailed and reasoned one and the same should not be interfered with. Accordingly, she prays for dismissal of this writ petition.

After considering the rival contentions of the parties and upon perusal of the materials on record, the admitted facts are that the petitioner for the first time was engaged in her employment in the year 1987 upon submission of all records and documents. The employer after verifying and causing the necessary

scrutiny of such records and documents issued the appointment letter and the petitioner was employed on the basis of such records way back in **1987**. The identity card was also issued by the employer at **page 26** to the writ petition, mentioning the **Date of Birth** as **October 16, 1967**. The identity card was also issued on **April 8, 2005**, twenty years back, on the basis of such recording the petitioner was made permanent in her employment in the year **2009** and the service book was prepared. For the first time in **2024** at the time of scrutiny of the said service book the employer unilaterally came to a finding that the date of birth of the petitioner was to be **October 16, 1965** instead of **October 16, 1967**. The matter was then referred for correction of record and ultimately the impugned communication dated **September 24, 2024** was issued by the Special I.G. addressing to the relevant Superintendent described against respondent no. 4. The sole plea taken in the said impugned communication was the Government Memorandum dated **January 24, 2012** at **page 31** to the writ petition, as the basis of the impugned decision. The Memorandum shows that, if anybody seeks correction of recording of date of birth such prayer has to be made within the period of five years from the joining in the Government service. The facts in the instant case shows that after decades of joining in the service

the petitioner for the first time from the communication dated **January 3, 2024**, as referred to above came to know about the dispute with regard to recording the date of birth raised by the employer. Therefore, the question of applying for correction of the date of birth within the period of five years from the date of service was an illusory plea. This shows sheer non-application of mind with a mechanical approach.

In view of the above, the impugned communication dated **September 24, 2024** at **page 30** the writ petition stands **set aside** and **quashed**.

The respondent no. 3 and/or any other appropriate and jurisdictional authority is directed to record the **Date of Birth** of the petitioner as **October 16, 1967** wherever it is required to be recorded in the service record of the petitioner and the employer and/or the relevant State authorities shall proceed on the basis of the same. The **retirement** of the petitioner shall take place on the basis of the said **Date of Birth** being **October 16, 1967** and the relevant calculation of terminal benefits should accordingly be done.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

In view of the foregoing reasons and discussion this writ petition **W.P.A. 4656 of 2025** stands **allowed**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)