

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

**RVW/291/2024
THE WEST BENGAL RENEWABLE ENERGY
DEVELOPMENT AGENCY AND ORS.
VS
SUSHANTA KUMAR BISWAS AND ORS.
in
MAT/246/2024
THE WEST BENGAL RENEWAL ENERGY
DEVELOPMENT AGENCY AND ORS.
VS
SUSHANTA KUMAR BISWAS AND ORS.**

For the Appellants : Mr. Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee, Advocates
... ... For the applicants

Heard & Judgement on : February 18, 2025

DEBANGSU BASAK, J.

1. Review applicant seeks review of the order dated August 19, 2024 passed in MAT 246 of 2024.
2. Learned advocate appearing for the appellants submits that the date of birth of the writ petitioner which was initially recorded as January 2, 1964 cannot be corrected to be January 4, 1966 as directed by the order dated August 19, 2024.

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3. Learned advocate appearing for the review applicants draws the attention of the Court to the order which was under challenge in MAT 246 of 2024. He submits that, the order of the learned single Judge dated November 16, 2023 was subsequently corrected on November 22, 2023. He submits that various portions of the original order dated November 16, 2023 were deleted and few portions were added subsequently on November 22, 2023. Appeal was directed against both the orders dated November 16, 2023 and November 22, 2023.
4. Learned advocate appearing for the review applicants submits that the basis for grant of correction of the date of birth by the learned single Judge was, that, the West Bengal School of Secondary Education allowed the correction of the date of birth of the writ petitioner. He submits that, such is not the fact. Application for correction of the date of birth made by the writ petitioner was not allowed by such Board.
5. Learned advocate for the review applicant draws the attention of the Court to the judgments of the Supreme Court reported in **2013 SCC OnLine Cal 16790 [Sunil Kumar Santra vs. Secretary, Finance (Revenue) Dept. Government of West Bengal & Ors.]** and **(2010) 9 SCC 209 [Madan Mohan Singh & Ors. vs. Rajni Kant & Anr.]** which were noted by the learned single Judge. He submits that, facts scenario obtaining in the present case are different and, therefore, the ratio laid down therein do not apply. According to him, learned Single Judge erred in relying on the ratio of judgments and, therefore, erred in granting relief to the writ petitioner to correct his date of birth.
6. Learned advocate appearing for review applicants submits that, the request for change of date of birth was made 17 years after the writ petitioner joined the services. Since, the request for change of the

date of birth was not backed up by unimpeachable documents, the request was not kept. Learned single Judge erred in allowing the change of date of birth. The appeal was dismissed. He submits that the order of dismissal of the appeal is liable to be reviewed and that on review, the orders of the learned Single Judge dated November 16, 2023 and November 22, 2023 be set aside.

7. Learned advocate appearing for the review applicants submits that the finding recorded in the order dated August 19, 2024 in respect of which review is sought for, records an erroneous finding that, all documents relied upon by the writ petitioner were much prior in point in time than his date of joining his services.
8. In response to a query of the Court learned advocate appearing for the review applicants submits that, the writ petitioner superannuated from the post of supervisor and that, minimum Class-X pass educational qualification is required for joining the services of the review applicants so far as the writ petitioner is concerned when he initially joined the services.
9. Issue in the writ petition was the refusal of the review applicants to change the date of birth from January 2, 1964 to January 4, 1966 of the writ petitioner. Writ petitioner placed reliance on a certificate issued by the school at which, the writ petitioner studied, before the learned Single Judge for the change of date of birth. Learned Single Judge accepted such document as cogent evidence to sustain a claim for change of the date of birth.
10. Factum of the writ petitioner studying in the school at which the new date of birth was relied upon by the writ petitioner is not disputed.

11. Writ petitioner also applied to the educational Board for necessary correction which apparently was refused.
12. There is no documentary evidence apart from the document of correction of date of birth issued by the school authorities so far as the date of birth of the writ petitioner is concerned.
13. Date of birth of the writ petitioner was corrected by the school authorities to be January 4, 1966.
14. **Sunil Kumar Santra (supra)** is a pronouncement of a Division Bench which follows **Madan Mohan Singh(supra)**. Both were noted by the learned Single Judge.
15. Both the authorities noted above proceeded on the basis that where there is unimpeachable evidence to establish a date of birth, then the original declaration of the date of birth of an employee should be corrected.
16. In the facts of the present case, there is a document issued by the school at which, the writ petitioner studied to say that the date of birth is January 4, 1966. Review applicant is not in a position to contest such date of birth on the basis of any cogent evidence.
17. View taken by the learned Single Judge as to the date of birth of the writ petitioner is plausible. Learned Single Judge gave elaborate reasons for the same. Errors apparent on the face of the record in the first order were corrected by the second order. None of the two orders is established to be perverse.
18. By our judgment and order dated August 19, 2024 we uphold the orders impugned in the appeal being MAT 246 of 2024.
19. No error appears in the order dated August 19, 2024 passed in the appeal requiring a review thereof.

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20. In such circumstances, we find no ground to review our order dated August 19, 2024.

21. RVW/291/2024 in MAT/246/2024 is accordingly **dismissed** without any order as to costs.

(Debangsu Basak, J.)

22. I agree.

(Md. Shabbar Rashidi, J.)

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