

OD-2

ORDER SHEET

WPO/1018/2023
IA NO.GA/1/2025

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

AJAY KUMAR SINGH
Versus
THE STATE OF WEST BENGAL AND ORS.

BEFORE:
The Hon'ble JUSTICE PARTHA SARATHI CHATTERJEE
Date : September 18, 2025.

Appearance
Mr. Debduitta Basu, Adv.
...for the petitioner

Ms. Niladri Bhattacharjee, Adv.
Ms. Deblina Chattaraj, Adv.
Ms. Poulami Chattopadhyay, Adv.
..for the respondent

The Court: The present writ petition has been filed seeking the issuance of a writ of mandamus directing the concerned respondents to rectify the petitioner's date of birth in the official service records from 8th September, 1965 to 2nd January, 1967, and to consequently release all service-related benefits accruing therefrom.

Mr. Basu, learned Advocate appearing on behalf of the petitioner, submits that the petitioner was appointed to the post of Cleaner on compassionate grounds following the death-in-harness of his father, who was an employee of the Calcutta Tramways Company Limited. He further submits that the petitioner was subsequently promoted to the post of Bus Conductor and has, since then, been discharging his duties in that capacity without any blemish.

He further submits that in the year 2003, it was discovered by the respondents themselves that, in a number of cases, the dates of birth recorded in the service records of employees were incorrect. Consequently, the respondents deemed it necessary to constitute a committee, which was duly formed and vested with the authority to review the service records of the staff and to submit its report. It is submitted that pursuant to such review, the petitioner's date of birth was corrected, and his correct date, 7 January 1967, was recorded in the service records available with the respondents at that time. An identity card was also issued to the petitioner reflecting the said corrected date of birth. However, the petitioner was later informed by the respondents that he is scheduled to retire on 30 September 2025

Faced with the aforesaid situation, the petitioner filed a writ petition being WPO/27/2023. However, during the pendency of the said writ petition, the petitioner was directed to appear before the Medical Board. Taking note of this development, the petitioner was permitted to withdraw the earlier writ petition, with liberty to file a fresh petition on the selfsame cause of action incorporating the subsequent developments. Accordingly, the present writ petition has been filed

Drawing my attention to page 24 of the writ petition, Mr. Basu submits that in a similar case, the date of birth of a co-employee of the petitioner was corrected, and consequential service benefits were extended to him on the basis of his school leaving certificate. He contends that the denial of similar treatment to the petitioner amounts to hostile discrimination. Accordingly, he prays for a direction upon the respondents to rectify the petitioner's date of birth in the service records and to release all consequential service-related benefits in his favour on the basis of the corrected date of birth.

In rebuttal, Ms. Chattaraj, learned Advocate appearing for the respondents, vehemently opposes the contentions advanced by Mr. Basu. She submits that the

identity card relied upon by the petitioner appears to have been tampered with, an alteration that is visibly noticeable upon plain examination. She points out that the numerical digits '2' and '7' appear to have been manipulated, having originally been '8' and '5' respectively.

She further submits that upon receiving an application from the petitioner, a committee was constituted, and the petitioner was directed to appear before the said committee as well as the Medical Board. However, the petitioner failed to appear before the Medical Board and did not extend proper cooperation to the committee members to enable them to reach a conclusive determination regarding his actual date of birth. Notably, the petitioner could not even recall the name of the school where he had commenced his education in his native place.

In view of the above, Ms. Chattaraj contends that the conduct of the petitioner casts serious doubt on the credibility of his claim. She argues that at this belated stage, when the petitioner is at the final phase of his service career and on the verge of retirement, such a prayer for correction of date of birth ought not to be entertained.

In reply, Mr. Basu, learned counsel for the petitioner, submits that although the respondents have alleged that the petitioner tampered with the date of birth recorded in his identity card, such allegation is vague, baseless, and unsupported by any cogent or convincing material. He contends that such a bald allegation cannot be entertained, particularly in view of the principle embodied in Order VI Rule 4 of the Code of Civil Procedure, which mandates specific pleading of allegations involving fraud, misrepresentation, or undue influence.

Referring to Section 114(g) of the Indian Evidence Act, Mr. Basu further submits that although the petitioner has asserted that his actual date of birth is 2 January 1967, the respondents have merely made evasive denials without specifically

rebutting the said assertion or producing any documentary evidence to the contrary. He argues that in the absence of a specific denial and in view of the respondents' failure to produce relevant records, this Court needs to draw an adverse presumption against the respondents and to accept the petitioner's claim that his correct date of birth is 2 January 1967.

"Mr. Basu also refers to report of an ossification test and/or a medical examination, pursuant to which the concerned Radiologist, after thorough assessment, opined that the petitioner was approximately 16 years of age at the time. It is submitted that the said report was prepared and submitted in the year 1983. Accordingly, he contends that if this medical report is taken into consideration, it would clearly indicate that the petitioner's year of birth is 1967.

Heard the learned advocates appearing for the respective parties and perused the materials on record.

As noted earlier, the petitioner commenced service in 1985, and his date of birth was recorded as 8 September 1965 in his appointment letter. The record further reveals that the petitioner was sent for an ossification and medical test in 1983, during which it was noted that, according to the school records, the petitioner's date of birth was 18 September 1965. Although the medical report opined that the petitioner was approximately 16 years of age in 1983, it is well-established in medical jurisprudence that such age assessments may vary by up to two years. Consequently, the results of such medical examinations cannot be regarded as conclusive proof of a person's exact age.

The petitioner for the first time agitated this point in 2023, that is, almost 38 years from the date of his entry into the service. There is catena of decisions where the Hon'ble Supreme Court has not entertained such writ petition which is preferred

at the fag end of the service tenure or just on the verge of retirement seeking rectification of the date of birth in the service record.

In the decision of *Karnataka Rural Infrastructure Development Limited vs. T. P. Nataraja & Ors.*, reported in (2021) 12 SCC 27, the Hon'ble Supreme Court observed that an application for change of date of birth cannot be claimed as a matter of right. Furthermore, the Court held that a request for correction of the date of birth in service records, particularly when made at the fag end of the service tenure, is liable to be rejected on the grounds of delay and laches.

Therefore, applying the principles laid down in the aforementioned judgments, I am of the considered view that at this late stage in the petitioner's service, the present writ petition cannot be entertained. Accordingly, the petition is dismissed without any order as to costs.

In view of the dismissal of the writ petition, the connected application being IA No. GA/1/2025 is also dismissed.

(PARTHA SARATHI CHATTERJEE, J.)

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