

Nikita

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR**

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4650 OF 2012

Bajrang Shankar Jadhav

...Petitioner

versus

Mahatma Phule Krushi Vidhyapeeth,
Rahuri, and Ors.

...Respondents

.....

Mr. Sagar Ashok Mane for the Petitioner.

Mr. V. M. Mali, AGP for the State.

.....

**CORAM : M.S. KARNIK &
SHARMILA U. DESHMUKH, JJ.**

DATE : 13th OCTOBER, 2025.

ORAL JUDGMENT (PER M. S. KARNIK, J.):

1. By this petition, filed under Article 226 of the Constitution of India, 1950 the Petitioner challenges the order dated 30th September, 2004 passed by the Respondent No.2, holding the date of birth of the Petitioner to be 1st June, 1952 instead of the correct date of birth, which according to the Petitioner is 24th September, 1955.

2. The facts of the case in brief are that the Petitioner joined the services of the Respondent No.1-University as a Junior Research Assistant w.e.f. 10th June, 1980. On 11th April, 1980, a certificate was issued by the Executive Taluka Magistrate, Walawa Islampur, certifying the date of the birth of the Petitioner as 24th September, 1955. On the

basis of this certificate, the date of birth in the service book of the Petitioner was recorded as 24th September, 1955.

3. On 21st April, 1995, the Respondents orally directed the Petitioner to produce the copy of the birth extract. The Petitioner obtained his birth extract dated 27th April, 1995 from the record of birth and death maintained by the Tehsildar Mouje Shirgaon, Tal Walva, District Sangli. In the said extract, the name of the Petitioner is shown as “Shamu Shankar Dadu Jadhav”. It is the submission of the learned Counsel for the Petitioner that “Shamu” is the pet name of the Petitioner since his childhood.

4. On 30th September, 2004, the Respondents informed the Petitioner that his name in the birth extract and the name in the school leaving certificate is not the same and hence the birth date mentioned in the School Leaving Certificate i.e. 1st June, 1952 will be considered as Petitioner’s valid date of birth.

5. Assailing the decision, learned Counsel for the Petitioner made the following submissions in support of his case:

a) Petitioner was appointed on 10.06.1980 as Junior Research Officer and the date of birth of Petitioner in the Service Book was recorded as 24.9.1955 on the basis of the documents submitted by Petitioner at the relevant time. Respondents did not question the validity of the said documents and accordingly the entry was

made by Respondents in the Service Book. After more than 24 years Respondents for the first time intimated Petitioner that his date of birth reflected in the School Leaving Certificate will be considered. This was only on the basis that the name of Petitioner in the School Leaving Certificate and the Birth Certificate was different. Petitioner states that the order dated 30.9.2004 is issued by Respondents without granting any opportunity to Petitioner. Hence the same is illegal and bad in law and the principles of natural justice are not followed.

b) Though Respondents issued order dated 30.9.2004, they did not make any changes in the service record of Petitioner and the real date of birth of Petitioner was considered by Respondents until the seniority list of Assistant Professor was published as on 1st January, 2010. However while publishing the seniority list of Associate Professor, Respondents changed the date of birth to 1st June, 1952. This was unilaterally changed on behalf of Respondents without considering the fact that from the date of appointment till the said date, the date of birth of Petitioner is shown as 24th September, 1955.

c) Respondents have unilaterally decided to consider the date of birth of Petitioner as 1st June, 1952 and accordingly Petitioner was compelled to retire on 31st May, 2012. This action of

Respondents to change the date of birth of Petitioner after the period of 5 years from the date of appointment of Petitioner, is illegal and contrary to law.

d) According to the correct date of birth, Petitioner has attained the age of superannuation on 30.9.2005. Due to the illegal act of Respondents, Petitioner was deprived from his services from the period of 1st June, 2012 to 30th September, 2015. Hence Petitioner is entitled for the monetary benefits in terms of the salary and the other consequential benefits as prayed in the petition.

6. We have perused the affidavit in reply filed on behalf of the Respondent Nos. 1, 2 and 3 in justification of their stand.

7. Heard learned Counsel. Perused the pleadings and the materials on record. Respondent No.1 noticed that there was difference between date of birth in the School Leaving Certificate and date of birth which is registered in the birth register. Reliance is placed on the provisions of Maharashtra Civil Services (General Conditions of Service) Rules, 1981 (Rules, for short). Rule 38(2) of the said Rules provides that changes regarding the birth date cannot be considered after five years of the date on which the employee joins the service. According to the Respondents, the circular issued by the Government on 3rd March, 1998 in paragraph No.4 provides that if the date mentioned in the register

book of birth and death records and the one mentioned in School Leaving Certificate is different, the date mentioned in the register book of birth is accepted, with a rider that this evidence may be considered only for those employees whose name and birth date are already included in the main birth and death register book maintained by the concerned department and this entry should have been made at the time of the said birth. Only in such circumstances, the date as per the register of birth and death records has been considered as the date of birth of the employee.

8. In the present case, we find that the Petitioner's name in the birth register is recorded as "Shamu". According to the Petitioner, as his pet name is Shamu, hence the birth certificate certifying that he was born on 24th September, 1955 is to be regarded as the Petitioner's date of birth. We are not convinced with this explanation. There is absolutely no material in support of such contention except for the petitioner saying so. On the contrary, we find that in the School Leaving Certificate, the Petitioner's full name has been incorporated indicating the date of birth as 1st June, 1952 which is more acceptable and reliable.

9. We have also perused the certificate of Age, Nationality and Domicile which has been relied upon by the learned Counsel for the Petitioner. The said certificate of nationality was issued on 11th April,

1980 by the Executive Taluka Magistrate on the following particulars of proof that were submitted:

1. Answer given by the Applicant on the prescribed form of Questionnaire dated 11th April, 1980.
2. True copy of the certified copy of birth date and affidavit.
3. Affidavit or declaration of 11th April, 1980.

10. In our opinion, the said certificate cannot be a substitute for the School Leaving Certificate which the Respondents relied upon. Merely because the date of birth of the Petitioner is reflected in the seniority list dated 1st January, 2010 as 24th September, 1955 will not be sufficient to establish that this date has to be regarded as correct birth date of the Petitioner. Whereas, in the seniority list of 1st January, 2011, the date of birth of the Petitioner is shown as 1st June, 1952 which is as per the School Leaving Certificate. Thus we find that the materials relied by the Petitioner are not sufficient to dislodge the stand of the Respondents. The Petitioner has already retired on 31st May, 2012 on the basis of the date of birth as entered in the School Leaving Certificate.

11. In light of the materials on record, it is not possible to accept the contention of the learned Counsel for the Petitioner that his correct date of birth is 24th September, 1955. We, therefore do not find any fault with the decision of the Respondents in treating the Petitioner's date of

birth as 1st June, 1952.

12. As there is no merit in the petition, the same is dismissed with no order as to cost.

[SHARMILA U. DESHMUKH, J.]

[M.S. KARNIK, J.]