



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO.2063 OF 2024

[Dr. Sau Kavita W/o Anil More .vs. State of Maharashtra and Others]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri. A. R. Wagh, Advocate for Petitioner.
Shri. N. S. Rao, Asst. G. P. for Respondents/State.

**CORAM : ANIL S. KILOR AND
RAJ D. WAKODE, JJ.**

DATE : 23rd APRIL, 2026.

. In the present matter, the challenge is raised to the impugned judgment dated 05.02.2024 passed in Original Application No.338 of 2022, by the learned Maharashtra Administrative Tribunal, Nagpur, dismissing the original application by upholding the communications dated 27.07.2023 and 01.08.2023, issued by respondent Nos.1 and 2 respectively rejecting the prayer of the petitioner for change of her date of birth from 15.04.1968 to 24.03.1969.

2. The petitioner was appointed on 30.09.1994 and immediately thereafter, submitted the applications for correction of her date of birth on 15.10.1994 and 15.12.1994. Though, it is the case of the respondents that the request was rejected on 19.04.2010, as observed by the learned Tribunal, no document was produced. The communications dated 27.07.2023 and 01.08.2023, are the communications whereby the request of change of date of birth as made by the petitioner, is rejected.

3. Admittedly, the petitioner was appointed as a Live Stock Development Officer and presently working as an Assistant Commissioner. There is no dispute that the provisions of the Maharashtra Civil Services (General Conditions of Services) Rules, 1981 (for short, "the Rules of 1981"), are applicable to the

petitioner's case. The request for change of date of birth in the service record can be considered under Rule 38 of the Rules of 1981, and more particularly sub-rule (2)(f), which says that while recording the date of birth, the procedure as stipulated under Clause (a to f) shall be followed and once such entry of age or date of birth has been made in a service book, an alteration is sought, it should be allowed unless it is shown that the entry was due to want of care on the part of some person other than the individual in question or is an obvious clerical error.

4. Thus, from the language of the above referred provision, it is evident that the scope for alteration of date of birth once is very limited and restricted only to the cases where it is shown that the entry was due to want of care on the part of some person other than the person, who is seeking such alteration or is an obvious clerical error.

5. In the present matter, considering the challenge raised to the impugned judgment of the learned Tribunal, we perused the original application so also the present writ petition. There are no pleadings made satisfying either of the condition namely, the entry was due to want of care on the part of some other person than the petitioner or it is an obvious clerical error.

6. The petitioner has placed reliance on the judgment of the Hon'ble Supreme Court of India in the case of CIDCO vs. Vasudha Gorakhnath Mandevlekar, reported in **(2009) 7 SCC 283**, wherein the Hon'ble Supreme Court of India has observed that whenever there is a variance between an unproved private document or its copy and a certificate extract of a public record, the latter must prevail as it has more probative value, carrying the presumption as it does under Section 79 of the Evidence Act.

7. Applying the said principle, there is no doubt that here the birth certificate of the petitioner shows that the date of birth of the petitioner as 24.03.1969. However, the School Leaving Certificate and College Document, submitted by the petitioner at the time of securing the services, show that the date of birth of the petitioner is as 15.04.1968. It is not the case of the petitioner that the entry taken in the service record i.e. 15.04.1968 as date of birth of the petitioner is due to want of care on the part of some person other than the petitioner or it is also not the case of the petitioner that it is an obvious clerical mistake.

8. Thus, in absence of any pleading to that effect, the petitioner's prayer cannot be permitted for alterations as contemplated under Rules 38(a) to (f).

9. In that view of the matter, we do not find any error committed by the learned Tribunal in rejecting the original application of the petitioner. Hence, the petition is **dismissed**. No costs.

(RAJ D. WAKODE, J.)

(ANIL S. KILOR, J.)