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WP-9368-2012

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE MANINDER S. BHATTI

ON THE 7th OF APRIL, 2026WRIT PETITION No. 9368 of 2012

NARAYAN

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Purn Jeet Gupta - Advocate for the petitioner.

Shri Sourabh Soni - Panel Lawyer for the respondent/State.

ORDER

This petition has been filed by the petitioner under Article 226 of the Constitution of India while praying for following reliefs:-

"i. That, the Hon'ble Court may kindly be pleased to quash the retirement order from the service of the petitioner dt. 31.05.2012 in Annexure-P/1.

ii. That, the Hon'ble Court may kindly be pleased to direct to the respondents for continuing the petitioner in service actual age of 62 years as per the date of birth of the petitioner 15.05.1963.

iii. That, the Hon'ble Court may kindly be pleased to direct to the respondents for necessary correction in the service record of the petitioner with regard to his date of birth.

iv. Any other relief which this Hon'ble Court may deems fit and proper, including the cost of the litigation."

2. Learned counsel for the petitioner contends that the petitioner is seeking quashment of the order dated 31.05.2012 contained in Annexure P/1 by which the petitioner was directed to be superannuated upon attaining the



age of 60 years. It is contended by the counsel that the petitioner was disputing the date of birth which was recorded in the service record of the petitioner as the year 1950. Thus, the petitioner has submitted a representation contained in Annexure P/6 dated 19.03.2010 and requested that his date of birth be corrected in terms of the examination conducted by the Medical Board. However, the said request was not acceded to, and the petitioner was superannuated vide impugned order contained in Annexure P/1 dated 31.05.2012. It is further contended by the counsel that it is a case where the date of birth of the petitioner was incorrectly recorded in the service book and therefore, the correction was imperative in the case in hand in terms of the opinion given by the Medical Board. It is thus contended by the counsel that the authority be directed to take a decision on the petitioner's representation.

3. *Per contra*, learned counsel for the respondent/State submits that the date of birth of the petitioner mentioned in the service book was 1950 and therefore, taking into consideration the aforesaid, the petitioner is to be superannuated. The petitioner is precluded from questioning the entry pertaining to the date of birth in the service record at the fag end of his service career. It is contended by the counsel that it is a case where a futile attempt is being made by the petitioner to seek correction in the date of birth at the fag end of his service, which is impermissible in view of the law laid down by the Apex Court in the case of *Bharat Coking Coal Limited and Ors. Vs. Shyam Kishore Singh reported in (2020) 3 SCC 411*.

4. Heard the submissions advanced on behalf of the parties and



perused the record.

5. Having considered the submissions and perusal of the record reflects that it is a case where the petitioner is seeking correction of his date of birth in the service book at the very fag end of his service career. Undisputedly, the petitioner attained the age of 60 years on 30.06.2012. The first representation that the petitioner made during the entire service career was on 19.03.2010 contained in Annexure P/6 and there is no other document on record to substantiate that any effort was made by the petitioner to dispute the entry in the service book and the inaction of the petitioner as regards raising a dispute regarding his date of birth is nowhere explained in the entire petition. The law in this regard is settled. The challenge to the date of birth cannot be made at the fag end of the service career.

6. The Apex Court in the case of **Bharat Coking Coal Limited and Ors. Vs. Shyam Kishore Singh** reported in (2020) 3 SCC 411 has held as under:

"9. This Court has consistently held that the request for change of the date of birth in the service records at the fag end of service is not sustainable. The learned Additional Solicitor General has in that regard relied on the decision in State of Maharashtra v. Gorakhnath Sitaram Kamble [State of Maharashtra v. Gorakhnath Sitaram Kamble, (2010) 14 SCC 423 : (2011) 2 SCC (L&S) 582] wherein a series of the earlier decisions of this Court were taken note and was held as hereunder : (SCC pp. 428-29, paras 16-17 & 19)

"16. The learned counsel for the appellant has placed reliance on the judgment of this Court in U.P. Madhyamik Shiksha Parishad v. Raj Kumar Agnihotri [U.P. Madhyamik Shiksha Parishad v. Raj Kumar Agnihotri, (2005) 11 SCC 465 : 2006 SCC



(L&S) 96] . In this case, this Court has considered a number of judgments of this Court and observed that the grievance as to the date of birth in the service record should not be permitted at the fag end of the service career.

17. In another judgment in State of Uttaranchal v. Pitamber Dutt Semwal [State of Uttaranchal v. Pitamber Dutt Semwal, (2005) 11 SCC 477 : 2006 SCC (L&S) 106] relief was denied to the government employee on the ground that he sought correction in the service record after nearly 30 years of service. While setting aside the judgment [Pitamber Dutt Semwal v. State of U.P., 1999 SCC OnLine All 1610 : 2000 All LJ 2341] of the High Court, this Court observed that the High Court ought not to have interfered with the decision after almost three decades.

19. These decisions lead to a different dimension of the case that correction at the fag end would be at the cost of a large number of employees, therefore, any correction at the fag end must be discouraged by the Court. The relevant portion of the judgment in Home Deptt. v. R. Kirubakaran [Home Deptt. v. R. Kirubakaran, 1994 Supp (1) SCC 155 : 1994 SCC (L&S) 449] reads as under : (SCC pp. 158-59, para 7)

‘7. An application for correction of the date of birth [by a public servant cannot be entertained at the fag end of his service]. It need not be pointed out that any such direction for correction of the date of birth of the public servant concerned has a chain reaction, inasmuch as others waiting for years, below him for their respective promotions are affected in this process. Some are likely to suffer irreparable injury, inasmuch as, because of the correction of the date of birth, the officer concerned, continues in office, in some cases for years, within which time many officers who are below him in seniority waiting for their promotion, may lose their promotions forever.

... According to us, this is an important aspect, which cannot be lost sight of by the court or the tribunal while examining the



grievance of a public servant in respect of correction of his date of birth. As such, unless a clear case, on the basis of materials which can be held to be conclusive in nature, is made out by the respondent, the court or the tribunal should not issue a direction, on the basis of materials which make such claim only plausible. Before any such direction is issued, the court or the tribunal must be fully satisfied that there has been real injustice to the person concerned and his claim for correction of date of birth has been made in accordance with the procedure prescribed, and within the time fixed by any rule or order. ... the onus is on the applicant, to prove the wrong recording of his date of birth, in his service book.”

10. This Court in fact has also held that even if there is good evidence to establish that the recorded date of birth is erroneous, the correction cannot be claimed as a matter of right. In that regard, in State of M.P. v. Premlal Shrivastava [State of M.P. v. Premlal Shrivastava, (2011) 9 SCC 664 : (2011) 2 SCC (L&S) 574] it is held as hereunder : (SCC pp. 667 & 669, paras 8 & 12)

“8. It needs to be emphasised that in matters involving correction of date of birth of a government servant, particularly on the eve of his superannuation or at the fag end of his career, the court or the tribunal has to be circumspect, cautious and careful while issuing direction for correction of date of birth, recorded in the service book at the time of entry into any government service. Unless the court or the tribunal is fully satisfied on the basis of the irrefutable proof relating to his date of birth and that such a claim is made in accordance with the procedure prescribed or as per the consistent procedure adopted by the department concerned, as the case may be, and a real injustice has been caused to the person concerned, the court or the tribunal should be loath to issue a direction for correction of the service book. Time and again this Court has expressed the view that if a government servant makes a request for correction of the recorded date of birth after lapse of a long



time of his induction into the service, particularly beyond the time fixed by his employer, he cannot claim, as a matter of right, the correction of his date of birth, even if he has good evidence to establish that the recorded date of birth is clearly erroneous. No court or the tribunal can come to the aid of those who sleep over their rights (see Union of India v. Harnam Singh [Union of India v. Harnam Singh, (1993) 2 SCC 162 : 1993 SCC (L&S) 375]).

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12. Be that as it may, in our opinion, the delay of over two decades in applying for the correction of date of birth is ex facie fatal to the case of the respondent, notwithstanding the fact that there was no specific rule or order, framed or made, prescribing the period within which such application could be filed. It is trite that even in such a situation such an application should be filed which can be held to be reasonable. The application filed by the respondent 25 years after his induction into service, by no standards, can be held to be reasonable, more so when not a feeble attempt was made to explain the said delay. There is also no substance in the plea of the respondent that since Rule 84 of the M.P. Financial Code does not prescribe the time-limit within which an application is to be filed, the appellants were duty-bound to correct the clerical error in recording of his date of birth in the service book.”

11. The learned Additional Solicitor General has also relied upon the decision of this Court in Kirloskar Bros. Ltd. v. Laxman [Kirloskar Bros. Ltd. v. Laxman, (2020) 3 SCC 419] dated 25-4-2019 wherein the belated claim was not entertained. Further reliance is also placed on the decision of this Court in Eastern Coalfields Ltd. v. Ram Samugh Yadav [Eastern Coalfields Ltd. v. Ram Samugh Yadav, (2020) 3 SCC 421] dated 27-5-2019 wherein this Court has held as hereunder : (SCC p. 422, paras 6-7)



“6. Nothing is on record that in the year 1987 when the opportunity was given to Respondent 1, to raise any issue/dispute regarding the service record more particularly his date of birth in the service record, no such issue/dispute was raised. Only one year prior to his superannuation, Respondent 1 raised the dispute which can be said to be belated dispute and therefore, the learned Single Judge [Ram Samujh Jadav v. Coal India Ltd., WP No. 215 of 2006, order dated 28-8-2007 (Cal)] as well as the employer was justified in refusing to accept such an issue.

7. The Division Bench of the High Court [Ram Samujh Yadav v. Coal India Ltd. APO No. 334 of 2009, order dated 6-10-2010 (Cal)] has, therefore, committed a grave error in directing the appellant to correct the date of birth of Respondent 1 in the service record after number of years and that too when the issue was raised only one year prior to his superannuation and as observed hereinabove no dispute was raised earlier.”

7. Thus, in view of the decision of the Apex Court in **Bharat Coking Coal Limited and Ors (Supra)**, it is evident that in the case in hand, there is an attempt by the petitioner to seek correction in service book pertaining to his date of birth which is impermissible at the fag end of the service career or after retirement. The prayer so made by the petitioner cannot be acceded to or considered.

8. Accordingly, this Court finds no merit in the present petition, and the same stands **dismissed**.

(MANINDER S. BHATTI)
JUDGE

