

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 40 OF 2021

DISTRICT : - AURANGABAD

Hirasingh s/o Kalyansingh Chandelthakur,)

Age - 57 years, Occu. : Service,)

R/o. Pachod, Tq. Paithan,)

District - Aurangabad.)

-- **APPLICANT**

V E R S U S

1. The State of Maharashtra,)
Through Principal Secretary of)
Revenuer & Forest Department,)
New Mantralaya, Mumbai.)

2. The Collector,)
Collector Office, Aurangabad.)

3. The Tahasildar,)
Tahasil Office, Paithan,)
Tq. Paithan, Dist. Aurangabad.)

-- **RESPONDENTS**

APPEARANCE : Shri K.A. Ingle, learned Advocate for the
applicant.

: Shri D.R. Patil, learned Presenting Officer
for the respondents.

CORAM : **V.D. DONGRE, MEMBER (J)**
DATE : **12.05.2021**

O R D E R

This Original Application is filed by the applicant seeking directions to the respondent nos. 2 & 3 to decide his

representation dated 30.12.2020 (Exh. E collectively pages 14 & 13 of paper book respectively) made by him for correction of his date of birth from 1.6.1963 to 31.3.1965.

2. The applicant is appointed as a Talathi on 31.5.1993 as per the order issued by the respondent no. 2. It is a part of Exh. A collectively at page 8 of paper book. At present the applicant is working as a Talathi at Sajja Pachod, Tq. Paithan, Dist. Aurangabad. The said transfer / posting order is part of Exh. A collectively and is at page 9 of the paper book.

3. The applicant contends that after joining the service, in his service book, his date of birth was recorded as 1.6.1963. It is the contention of the applicant that the document at Exh. B page 10 of paper book is a first page of his service book, which shows that in his service record his date of birth is recorded as 1.6.1963 on the basis of the school leave certificate issued by the Headmaster of Kambi High School, Kambi, Tq. Shevgaon, Dist. Ahmednagar, which is at Exh. C page 11 of the paper book. As per the entry regarding date of birth of the applicant in his service book, he is going to retire on 31.5.2021.

4. The applicant further states that in November, 2020 some of friends opined him that he looks younger than his age. The

applicant, therefore, approached the Tahsildar, Shevgaon Tahsil, Dist. Ahmednagar for getting a copy of extract of birth & death register. The applicant received the copy of extract of concerned birth & death register from the Tahsildar, Shevgaon Tahsil, Dist. Ahmednagar on 20.11.2020. As per the said document, his date of birth is 31.3.1965. The said document is at Exh. D page 12 of paper book.

5. In view of above, the applicant made representations to the respondent no. 3 – the Tahsildar, Paithan, Tq. Paithan, Dist. Aurangabad and the respondent no. 2 – the Collector, Aurangabad on 30.12.2020 seeking correction of his date of birth as recorded in his service record. The copies of said representations of the applicant dated 30.12.2020 submitted to the respondent no. 3 and respondent no. 2 are at Exh. E collectively on pages 13 & 14 of paper book respectively. It is the contention of the applicant that as per the copy of extract of birth & death register issued by the Tahsildar, Shevgaon, the date of birth of the applicant is 31.3.1965 and it is his real date of birth. It is his further contention that his date of birth as recorded in the school leaving certificate is wrong one as it was recorded on the basis of information given by his illiterate parents at the time of admitting him in school. The said representations of the applicant were not

decided by the respondent nos. 2 & 3 and therefore he has filed the present O.A. seeking necessary directions to the said authorities to decide his said representation within a prescribed time limit as he is going to retire from the Government service on 31.5.2021.

6. The affidavit in reply is filed on behalf of respondent no. 3 resisting the contentions of the applicant raised in the O.A. It is the contentions of the respondent no. 3 that the applicant has approached to the respondents for correction of his date of birth after lapse of considerable period. As per the service rules the applicant ought to have approached the respondent authorities within a stipulated period of 5 years from the date of joining the service for corrections of his date of birth. There are various case laws of Hon'ble High Court and the Hon'ble Supreme Court holding that correction in date of birth cannot be considered after lapse of so long years. The said claim cannot be made by the employee as of right even if the employee has cogent reason to establish that the recorded date of birth in his service record is erroneous. Hence, the present O.A. deserves to be dismissed.

7. I have heard the arguments advanced by Shri K.A. Ingle, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

8. By this O.A. the applicant is only seeking directions to the respondent nos. 2 & 3 for deciding his representation dated 30.12.2020 (Exh. E collectively pages 13 & 14 of paper book). Perusal of page 13 of paper book would show that the representation dated 30.12.2020 is addressed by the applicant to the Tahsildar, Paithan, Dist. Aurangabad, whereas the representation at page 14 of paper book is addressed to the Collector, Aurangabad for correction in his date of birth. On both these documents there is endorsement that the said Offices have received the said representations on 30.12.2020 itself. However, from the affidavit in reply of the respondent no. 3 it seems that the said representation of the applicant dated 30.12.2020 is still pending with the said authorities.

9. It is a fact that the applicant is due for retirement on 31.5.2021. The applicant has a right of getting his representation dated 30.12.2020 to be decided during his service tenure and if the said representation of the applicant is rejected by the respondents that may give a fresh cause of action for the applicant to seek relief before the appropriate forum.

10. In view of above, I am of the considered opinion that, the present O.A. can be disposed of by giving suitable directions to the

respondent nos. 2 & 3 to decide the representation of the applicant dated 30.12.2020 within a reasonable time. Hence, I pass the following order :-

ORDER

(i) The Original Application No. 40/2021 is allowed and disposed of.

(ii) The respondent nos. 2 – the Collector, Aurangabad and the respondent no. 3 – the Tahsildar, Paithan, Dist. Aurangabad are directed to decide the representation of the applicant dated 30.12.2020 (Exh. E collectively pages 14 & 13 of paper book respectively) for correction of date of birth as recorded in his service record by 25.05.2021 and said decision shall be communicated to the applicant in writing immediately.

(iii) If the decision of the respondents on the representation of the applicant dated 30.12.2020 goes against him, he is at liberty to approach the appropriate forum for redressal of his grievance.

There shall be no order as to costs.

(V.D. DONGRE)
MEMBER (J)

PLACE : AURANGABAD.

DATE : 12.05.2021