

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 534 OF 2016
(Subject – Date of birth)**

DISTRICT: OSMANABAD

Shri Lalu s/o Bhau Pawar,)
Age: 52 years, Occu. :Service working)
As Van Mazoor,)
R/o. At Post Nitali,)
Tq. & Dist. Osmanabad.) **.. APPLICANT**

V E R S U S

- 1) **The State of Maharashtra,**)
Through the Secretary,)
Social Forest Department,)
Maharashtra State, Mantralaya,)
Mumbai-32.)
- 2) **The Director of Social Forest**)
Department, Maharashtra State,)
'Central Building' Near Ambedkar)
Udyan Near Sasoon Hospital,)
Pune.)
- 3) **The Joint Director,**)
Social Forest Department,)
N-3, CIDCO, Aurangabad)
Tq. & Dist. Aurangabad.)
- 4) **The Deputy Director,**)
Social Forest Department)
Osmanabad Division,)
Central Administrative Building,)
Room No. 20, Osmanabad,)
Tq. & Dist. Osmanabad) **.. RESPONDENTS**

APPEARANCE : Shri M.B. Kolpe, Advocate for the Applicant.

: Shri N.U. Yadav, Presenting Officer for the
Respondents.

CORAM : JUSTICE A.H. JOSHI, CHAIRMAN.

Reserved on : 04.07.2018.

Pronounced on : 06.07.2018.

ORDER

1. Heard Shri M.B. Kolpe, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for respondents.

2. The applicant has approached this Tribunal seeking relief that the act of respondents in superannuating the applicant by order dated 21.06.2016 (Annexure A-4) be quashed and set aside and he be continued in the Government service till 30.06.2024.

3. The applicant's claim can be summarized as follows:-

The applicant was daily wage worker working in the Forest Department. As a part of scheme of granting status of permanency, and absorption to the daily wagers serving in the Forest Department, the applicant was absorbed in the year 2012. After absorption, the applicant's service book was prepared. In the service book of the applicant, his date of birth was recorded as 16.01.1964 based on medical opinion. The applicant has been superannuated by impugned order treating that he has attained the age of superannuation on 30.06.2016.

4. In the Original Application, the applicant has pleaded relating to his date of birth and his present age as follows:-

*“3) The applicant states that, considering the available evidence, service book of applicant is prepared and date of birth of applicant was entered as **16.04.1964** in the service book. The date of birth of applicant was recorded in the service book by birth certificate issued by Grampanchayat U/sec. 12/17 of Registration of Birth and Death Act, 1969 and Rules and Medical Certificate issued by Civil Surgeon, Osmanabad in the year 1996 the present applicant has also given Affidavit on 18.10.1996. The copies of Birth Certificate, fitness certificate and Affidavit dated 18.10.1996 are annexed herewith and marked as **ANNEXURE A-1 colly.***

*(7) The applicant states that, the applicant came to be appointed by order dated 29.11.2013 and he was given appointment order and after issued the appointment order the applicant’s service record was created and the respondents have entered the date of birth of applicant in service as 16.01.1964. The copy of the order dated 29.11.2013 and relevant record of service book extract are annexed herewith and marked as **ANNEXURE A-3 colly.**”*

(quoted from page nos. 3 to 5)

5. The averments contained in paragraph Nos. 3 and 7 have been replied by the respondents Nos. 1 to 4 in their affidavit in reply, with following averments:-

“4.

*I say and submit that, later on as per the G.R. dated 31.10.2013 in respect of daily wages casual labourers they were made permanent for working under the Plan and Non-Plan Scheme during the period from 01.11.1994 to 30.06.2004 considering that their period of work continuously or with breaks for 240 days in a year for at least consecutive five years. As per the said G.R. of 31.10.2013 the Applicant complied the aforesaid conditions laid down in the G.R. of 31.10.2013. Hence the Applicant was made permanent from 01.06.2012 as per the provisions contained in the G.R. dt. 31.10.2013. Hereto annexed and marked as copy of G.R. dated 31.10.2013 along with list of the permanent labourers working in Social Forestry Division, Osmanabad District Osmanabad as **ANNEXURE “R-2” Collectively**.*

I say and submit that, in the aforesaid list with G.R. of dt. 19.10.1996 the name of Applicant appeared at Sr. No. 487 wherein his Date of Birth is mentioned as 20.06.1956 which is the final proof mentioned in the list as per the approved documents received from the Applicant and accordingly the date of birth record by the Government.

I further say and submit that, the Service Books were prepared after the status of permanency was given to the eligible labourers vide G.R. dt. 31.10.2013. While preparing the Service Book of the Applicant the mistake occurred at the hands of the then Head Clerk of Social

Forestry Dept., Osmanabad who wrongly mentioned the date of birth of Applicant as 16.01.1964 instead of recording the date of birth of Applicant as 20.06.1956. Considering the mistake made by the then Head Clerk, the office has already given Show cause and Charge sheet to the then Head Clerk and later on he had also admitted the said mistake.

*I say and submit that, after noticing the discrepancy the Respondent No. 3 issued letter dated 30.04.2015 directing Respondent No. 4 to make the necessary correction in the Service Book of the Applicant. A copy of letter dated 30.04.2015 is annexed herewith and marked at **ANNEXURE "R-3"**.*

*I say and submit that, in compliance with the directions received from Respondent No. 3, the Respondent No. 4 made necessary correction in the Date of Birth of the Applicant as 20.06.1956 with endorsement. The necessary change of the Birth Date in respect of the Applicant came to be effected as per letter of Respondent No. 3 dated 30.04.2015, pursuant to the entry mentioned in the list of the permanent labourers and accordingly, in the service Book of the Applicant by deleting the wrong date i.e. 16.01.1964 and the correct date 20.06.1956 came to be noted in the Service Book. The copy of relevant page of Service Book is annexed herewith and marked at **ANNEXURE "R-4"**."*

(quoted from page nos. 23 to 25)

6. Annexure 'R-4' (paper book page no. 44) to the affidavit in reply clearly indicates the correction in the service record. In the

additional affidavit in reply of respondent No. 4, the plea already taken on record by the State is reiterated.

7. The applicant has not filed any rejoinder disputing the stand of the respondents.

8. Admittedly, the record of date of birth in the Panchayat taken by the applicant is showing his date of birth as 30.05.1966 and it was record in the year 2014, which being subsequent in time, does not carry any evidentiary value. Moreover, it is recorded on the basis of applicant's own statement.

9. In the aforesaid background, the applicant has failed to show on the basis of any document or evidence to counter or dispute the date of birth, which was borne on record.

10. Therefore it is clear that the applicant has failed to show that his date of birth recorded by the State is erroneous.

11. No relief as claimed by the applicant can be granted.

12. There is no merit in the present O.A and it is dismissed without any order as to costs.

PLACE : AURANGABAD.

DATE : 06.07.2018.

KPB/S.B. O.A. No. 534 of 2016 BPP 2018 Date of birth

(A.H. JOSHI)
CHAIRMAN