

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION NO 602 OF 2023**

**DISTRICT : MUMBAI**

Shri Satishkumar Sukhlal Valmiki )  
Chaudhary, Age 59 as per 19.1.1964 )  
55 as per 25.2.1968. Occ-Peon, Class-IV )  
R/at Old Custom House Staff Quarters, )  
Gr floor, Chawl No. 1, Room No. 1, )  
Fort, Mumbai 400 001. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Through the Secretary, )  
Revenue & Forest Department, )  
World Trade Centre Bldg No. 1, )  
Cuffe Parade, Mumbai 400 005. )  
2. The District Collector, )  
Mumbai City, having office at )  
Old Custom House, S.B.S Marg, )  
Fort, Mumbai 400 001. )...**Respondents**

Shri K.R Jagdale, learned advocate for the Applicant.

Shri A.J Chougule, learned Presenting Officer for the Respondents.

**CORAM : Mrs Medha Gadgil (Member) (A)**

**DATE : 24.01.2024**

**J U D G M E N T**

1. The applicant working as Peon, Group-D challenges the impugned order dated 30.6.2021, passed by Respondent No. 2, against his communication dated 8.2.2022 and 10.3.2022 by which he was informed that his request of changing his date of birth in his service from 19.1.1964 to 25.2.1968 was rejected.

2. Learned counsel has pointed out that the applicant was appointed on compassionate ground as Peon, Group-D as per the provisions of the Lad Page Committee by order dated 31.3.2005, and was posted in the office of the Additional Collector and competent authority, Urban Land Ceiling, Greater Mumbai. Learned counsel pointed out that the parents of the applicant are illiterate and while schooling admission of the applicant they could not recollect the correct date of birth recorded in his native place in Bareilly, District-Uttar Pradesh, as 25.2.1968. Learned counsel states that the school authorities also wrongly mentioned his date of birth as 19.1.1964, which is incorrect. He relies on the true copy of the Birth Certificate dated 3.1.2011 issued by Municipal Council, Bareilly, Uttar Pradesh, showing the date of birth of the applicant as 25.2.1968. Accordingly, his date of birth in the Pan Card and Aadhar Card was recorded as 25.2.1968. The Government Gazetted published by the Government of Maharashtra dated 2.10.2013, also changed the date of birth of the applicant from 19.1.1964 to 25.2.1968. Learned counsel for the applicant pointed out that the applicant was appointed on the post of Peon as per his educational qualification and eligibility on 31.3.2005 at the age of 41 years. The applicant at that time submitted his 10<sup>th</sup> Standard Mark Sheet dated 18.6.1984, bearing

his date of birth as 19.1.1964. However, after discussion with his sister the applicant came to know that his date of birth might be wrong, and therefore, he applied for Birth Certificate to Municipal Council, Bareilly, Uttar Pradesh.

3. Learned counsel has further submitted that the applicant is due to retire on 31.1.2024 and therefore, his date of birth may be changed from 19.1.1964 to 25.2.1968. He also pointed out that the G.R dated 25.12.2008 does not put any bar on change of date of birth of any Government servants.

4. Learned counsel for the applicant relied on the following decisions:-

(1) Judgment of Hon'ble Bombay High Court, Nagpur Bench dated 9.7.2014, Ashok Pralhad Meshram Vs. Head Master, Zilla Parishad High School, [2014] 6 MhLJ 590.

(2) Judgment of Hon'ble Bombay High Court dated 17.4.2008 in Vasudha Gorakhnath Mandvilkar Vs. The City and Industrial Development Corporation of Maharashtra Ltd, Civil W.P No. 6962/2006.

5. Learned P.O while refuting the contentions made by the learned counsel for the applicant pointed out that the applicant had himself submitted the 10<sup>th</sup> Standard Mark sheet showing his date of birth as 19.1.1964, when he was appointed on the vacant post of Peon, Class-IV. In this case, there was no Clerical error nor mistake on the part of the person other than the individual in question. Furthermore, the applicant did not take any steps for correction of his date of birth, despite the fact that the entry in the service record was made by the applicant in his own handwriting and signature and he was working in the office since 2005. He further stated that as a general rule entry once recorded in the service record is to be treated as final and any alteration thereto is

an exception to the rule. He pointed out that the first representation made by the applicant was on 9.1.2014.

6. Learned P.O relies on the affidavit in reply dated 12.1.2024 filed by Aadesh Maruti Daphal, Tahsildar in the office of the District Collector, Mumbai. The affidavit states that vide letter dated 14.1.2015 the Respondents had informed the applicant that as per Rule 38 of the Maharashtra Civil Services (General Conditions of Service) Rules, 1981, (Rules of 1981), the applicant should have sought the remedy within 5 years for the correction of entry regarding date of birth. It is stated in the affidavit in reply that no reliable material was produced to show that the date of birth of the applicant mentioned in the School Leaving Certificate was incorrect. It was also pointed out that the extract of birth and death Register given by the Municipal Council, U.P did not mention his mother's name and no record of admission of the mother of the applicant in the patient register of the Maternity Ward is available in the Civil Hospital. It is also stated that as a matter of fact under the provisions of clause 26.3 and 26.4 of the Secondary School Code, change in the date of birth is not permissible after the student leaves the school.

7. Learned P.O pointed out that as per Rule 41 of the Maharashtra Civil Services (General Conditions of Service) Rules, 1981, the service book has been maintained by taking signature of the applicant who verified the service book. He did not object to the entry in the Service Book. Thus, there has been inordinate and unexplained delay on the part of the applicant to seek correction in his date of birth. Learned P.O relies on the judgment of the Hon'ble Supreme Court in the case of State of Maharashtra Vs. Gorakhnath Sitaram Kamble, (2010) 14 SCC 423, which held that the date of birth of Government servant who had entered into

Government service on or after 16.8.1981 could not be changed after five years of joining of service, in view of Rule 38(2)(f) of Maharashtra Civil Services (General Conditions of Service) Rules, 1981.

8. I have considered the submissions of both the sides. It is an undisputable fact that the applicant had sought correction in the entry in his date of birth belatedly, i.e., after six years, seven months and eight days. Rule 38 of the Maharashtra Civil Services (General Conditions of Service) Rules, 1981 clearly provides that the applicant should seek correction in the entry in date of birth within 5 years from the date of entry into service and no alteration of the entry should thereafter be allowed.

9. The facts in the cases relied by the learned counsel for the applicant are not applicable in the present case.

10. It is to be noted that the applicant had himself signed his service book and given a copy of his Matriculation Certificate which stated that his date of birth was 19.1.1964. He has been unable to give any satisfactory proof regarding the change in his date of birth. The extract of birth and death Register 2011 of the Municipal Council, U.P, produced by him did have mention of his mother's name, but no record of admission of mother of the applicant in the patient register of the Maternity Ward is available in the Civil Hospital. He has approached the Tribunal at the fag end of his service career on 23.5.2023. In the case of Union of India Vs. Harnam Singh, AIR 1993 SC 1367, the Hon'ble Supreme Court observed that the correction in date of birth of a Government servant should be made within a period of 5 years from the date of entry into service.

11. I rely on the judgment of the Hon'ble Bombay High Court, Aurangabad Bench dated 30.5.2023 in Gajanan B. Rabde Vs. Chief Administrative Officer, Maharashtra Jeevan Pradhikaran, W.P 9744/2023. In the said case, the Hon'ble High Court emphasized that a person cannot be permitted to sleep over their rights and approach the employer for change in the date of birth at the fag end of his career. It has referred to several judgments of the Hon'ble Supreme Court that had consistently held that such changes could not be allowed in the final stages of employment.

12. The totality of the aforesaid discussion leads me to pass the following order.

**ORDER**

The Original Application is rejected. No order as to costs.

**Sd/-  
(Medha Gadgil)  
Member (A)**

**Place : Mumbai  
Date : 24.01.2024  
Dictation taken by : A.K. Nair.**