

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.151 OF 2021

**DISTRICT : THANE
SUBJECT : DATE OF BIRTH**

Shri Vilas Balwant Taskhedkar,)
Aged 56 years, working as Drug Inspector in the)
Office of Joint Commissioner (Food and Drugs),)
Having Office at Ground Floor, Vardan Building,)
Road No.16, Wagle Estate, Thane, R/o. 7-B,)
Linden Iden-Wood, Ghodbunder Road, Thane (W).)... **Applicant**

Versus

The State of Maharashtra,)
Through Principal Secretary,)
Medical Education and Drugs Department,)
Having Office at Mantralaya, Mumbai- 400 032.)... **Respondent**

Shri Arvind V. Bandiwadekar, learned Advocate for the Applicant.

Smt. K. S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : Shri A.P. Kurhekar, Hon'ble Member (J)

DATE : 08.09.2021.

JUDGEMENT

1. This O.A. perhaps discloses very unusual situation, where Date of Birth recorded in service book itself is being changed by the Respondents thereby causing serious prejudice to the Applicant.

2. The Applicant joined on 06.11.1993 as Drug Inspector at Jalgaon, at the time of entry in service he has tendered extract of Birth Register of Mouje Edalabad, Gram Panchayat wherein his Date of Birth was recorded as 14.11.1964. Accordingly in service book it was recorded as 14.11.1964. As per his Date of Birth 14.11.1964 the Applicant would be

attaining the age of superannuation on 30.11.2022 as specifically mentioned in service book as seen from page 14 of paper book extract. However, it appears that in leaving certificate the Date of Birth of the Applicant was wrongly recorded as 14.11.1963. The Applicant was not provided with duplicate copy of service book and he thought that his Date of Birth in service record might be 14.11.1963, though infact it is rightly recorded as 14.11.1964. However, he made representation under misconception that in service book it is wrongly recorded which has been turned down by the Government by order dated 14.04.2007. Indeed the Applicant should not have invited trouble by making any such representation on the basis of his apprehension. Interestingly while rejecting the Application it is stated in the impugned order that since Date of Birth is already recorded as 14.11.1963 in service book and it cannot be changed to 14.11.1964. Thus it is obviously non application of mind since admittedly in service book his Date of Birth is recorded as 14.11.1964. The Applicant continued to be in service and now have apprehension that his Date of Birth will be treated as 14.11.1963 and he will be retired at the end of November 2021 instead at the end of November 2022. It is on this background the Applicant has filed this present O.A. for declaration that his Date of Birth 14.11.1964 as recorded in service book be implemented for retirement.

3. Thus, this is not the case were the Government servant is seeking correction or change in Date of Birth recorded in service book. This is rather unusual case were the Applicant is seeking direction to accept his Date of Birth recorded in service book for his superannuation.

4. In view of aforesaid peculiar situation, all that learned P.O. submits that necessary direction be issued by the Tribunal since admittedly in service book Date of Birth of the Applicant is recorded as 14.11.1964.

5. Needless to mention at the time of entry in service book Department is in obligation to verify the documents pertaining to Date of Birth of a Government servant and to take correct entry in service book. In present case the Applicant's Date of Birth is admittedly recorded as 14.11.1964. There is endorsement in service book that Date of Birth is verified from original documents and found correct. Apart, the retirement date is mentioned as 30.11.2022 on the basis of Date of Birth 14.11.1964. The Applicant has also produced birth certificate from Gram Panchayat in namuna no.14, wherein his Date of Birth is recorded as 14.11.1964. Needles to mention that entry of Date of Birth in birth register maintained by Gram Pancahat / Local Body in due course of business have more evidential value than the Date of Birth recorded later in school. It is public document and there is presumption of its correctness unless rebutted.

6. The reference in Government order that in service book Date of Birth is recorded as 14.11.1963 is obviously erroneous and it discloses total non application of mind.

7. In view of Date of Birth as 14.11.1964 the Applicant would be retiring on 31.11.2022 but if his Date of Birth is considered as 14.11.1963 then he would be retiring soon i.e. 30.11.2021, and therefore, he has filed the present O.A. His apprehension that he would be retiring premature is reinforced in view of order of Government

8. In view of above, it is manifest that Respondent will have to act upon the Date of Birth recorded in service book as 14.11.1964 and there would be no question of changing the same to the prejudice of the Applicant. There is ample and cogent evidence that his Date of Birth is 14.11.1964, O.A. therefore deserves to be allowed.

ORDER

- (A) O.A. is Allowed.
- (B) Respondents are directed to act upon Date of Birth as 14.11.1964 as recorded in service book for the retirement and other service condition of the Applicant.
- (C) No order as to costs.

Sd/-
(A.P. Kurhekar)
Member (J)

Place: Mumbai
Date: 08.09.2021
Dictation taken by: N.M. Naik.