

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR**

ORIGINAL APPLICATION NO.784 OF 2017

DISTRICT : AKOLA

Zahed Ali Khan S/o. Afzal Khan,)
Age : 58 Yrs., Occu.: Pensioner,)
R/o. Bilal Nagar, Manglurpir,)
Tahsil : Manglurpir, District : Akola.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through its Secretary,)
Department of Health, Mantralaya,)
Mumbai – 32.)
2. Dy. Director, Health Services,)
Nagpur Circle Nagpur, Public Health)
Institution, Near Rahate Colony,)
Nagpur.)
3. Dy. Director, Health Services, Akola)
Circle, Lady harding Women Hospital))
Campus, Near Chaudhari High)
School, Akola.)
4. District Malaria Officer.)
Lakhara, Near R.T.O. Office,)
Washim.)...**Respondents**

Mr. S.U. Bhuyar, Counsel for Applicant.

Mr. S.A. Sanis, Presenting Officer for Respondents.

CORAM : SHRI A.D. KARANJKAR, MEMBER-J

DATE : 20.01.2020

JUDGMENT

1. The Applicant was appointed in service as Junior Clerk and he joined the service on 3rd February, 1990. It is the case of the Applicant that in School Record, his date of birth was recorded as 1st July, 1959 but his real date of birth was 22nd December, 1960. It is submitted by the Applicant that after joining the service, he made representation to the Respondents along with the extract of Kotwali Book. It is contended that the real date of birth of the Applicant was 22.12.1960. The request was made vide representation dated 6th July, 1990 to rectify the date of birth of the Applicant in his Service Record. It is submitted that the Respondents without considering the merits of the representation not taken action on it and due to this attitude of the Respondents, the Applicant was compelled to retire from the service on 30th June, 2017 after completing the age of 58 years.

2. It is the submission of the Applicant that the entry in the Kotwali Book was official entry having force of law, the entry was genuine and the register was signed by the Tahasildar Manglurpir, therefore, it was reliable evidence to correct the date of birth of the Applicant, as the request was made within a period of five years from the date of joining. It is submitted that the O.A. be allowed and the Respondents be given direction to correct the date of birth of the Applicant in the Service Record and to reinstate the Applicant in service or direct the Respondents to grant the service benefits for the period during which the Applicant was kept away from the duty.

3. The Application is resisted by the Respondents vide reply submitted by Respondent No.3. It is admitted by the Respondents that the representation was made by the Applicant on 6th July, 1990 through Rural Hospital, Pulgaon, Tahsil : Deoli, District Wardha. The Respondent No.3 submitted that in the School Leaving Certificate, the date of birth of the Applicant was mentioned as 1st July, 1959. It is submitted that the School Leaving Certificate was submitted by the

Applicant when he joined service and on the basis of information given by him, this date was entered in the Service Book of the Applicant. According to Respondents, the Applicant was very well aware about his date of birth and he did not make any dispute about the date of birth mentioned in School Leaving Certificate when he joined the duty and when this date was recorded in the service book. The Respondent No.3 has further submitted that no just reason is shown by the Applicant why he did not submit the extract of the Kotwali Book on which the Applicant is relying. It is the submission of Respondent No.3 that the entry in the Kotwali Book has no authentic value, as the entry in the Death and Birth Register maintained as per law. According to Respondent No.3, the evidence produced by the Applicant was not reliable and cogent, and therefore, the Applicant is not entitled for any relief in this O.A.

4. During the course of arguments, the learned Counsel for the Applicant has given much emphasis on Annexure A-1, the copy of the Certificate issued on the basis of Register maintained by Kotwali. I have perused Annexure A-1. On perusal of this document, it seems that this Register was maintained to note down the dates of birth and death in Mauza Manglurpir and Register is labeled as 'जन्ममृत्यूचे कोतवाली रजिस्टर'.

5. After reading Annexure A-1, it seems that for Mauza Manglurpir, Tal. Manglurpir, District Akola, a note of date of birth of one Jayad son of Afzal Khan was taken in Register as born on 22.12.1960. It is pertinent to note that the last Column of the Register was left blank. As per the last Column of the Register, it was necessary to mention the date of report submitted by the Police Officer along with signature of the Police Officer. It is important to note that in the last Column, the name of the Police Officer or name of person who gave the information about birth was not recorded and his signature was also not obtained. In the last column the date of report not mentioned. It is pertinent to note that this Korwali Book was maintained for taking entries of the births and deaths in Mauza Manglurpir, Tal. Manglurpir, District Akola. In this situation, the question arises when there was Municipal Council at Manglurpir,

then why information of the birth was not given to the Municipal Council for taking entry in the Birth and Death Register maintained by the Municipal Council as per the law.

6. The applicant has filed copy of his school leaving certificate issued on 5-10-1984, it is mentioned in this certificate that the applicant passed S.C.C. examination in May 1978. In this regard, I would like to point out that in School Record, the date of birth of the Applicant was recorded as 1st July, 1959. The Applicant joined the service on 03.02.1990, at that time, the Applicant had completed the age of 30 years. No explanation is given by the Applicant when he realized the fact that his date of birth in the School Register was incorrect, who gave him this information and his date of birth was recorded in the Kotwali Register. As a matter of fact, it was the duty of the Applicant to clear these facts. It is pertinent to note that till 06.07.1990, the Applicant did not challenge the correctness of his date of birth in the School Record. The Applicant has not given any clarification, as to who gave him information about entry of his date of birth in Kotwali register and its correctness.

7. It seems that it is the contention of the Respondents that the Applicant produced his School Leaving Certificate and on the basis of that Certificate, the date of birth of the Applicant was recorded in the Service Record. The learned Counsel for the Applicant was unable to explain the above questions, why the Applicant did not raise objection and challenge the entry of his birth in the School Record. The learned Counsel for the Applicant was unable to explain why the Applicant did not submit the extract from the Kotwali Register or why information of the birth was not given to the Municipal Council, why it was given to the Police Kotwali.

8. The legal position is settled that the date of birth of a Government servant in the Service Record can be corrected on production of cogent and reliable evidence of his date of birth, if representation is made within five years from the date of joining the Government service. In the present

matter, it seems that the entry taken in the Kotwali Book is silent, the name of mother is nowhere mentioned, name of the person who gave information and date of receiving information is nowhere mentioned and lastly, why entry was taken in Kotwali Register is not explained. On perusing of the last Column of the Register, it can be said that the register was maintained for recording the information about death or birth given by the Police Officer. In view of this situation it was necessary to explain, what was the propriety to note down the date of birth of the applicant in Kotwali Register when there was Municipal Council. After reading Annexure A-1, it is not possible to remove the above doubts, therefore, in my opinion Annexure A-1 is not reliable for holding that really the applicant was born on 22-12-1960. As Annexure A-1 is not reliable document to connect it with the date of birth of the Applicant, therefore, I do not see any merit in the contention of the Applicant that the Respondents acted illegally in not rectifying his date of birth as 22.12.1960. I, therefore, do not see any merit in the O.A. Hence, the following order.

ORDER

The Original Application stands dismissed with no order as to costs.

Sd/-
(A.D. KARANJKAR)
Member-J

*Nagpur
Date : 20.01.2020
Dictation taken by :
S.K. Wamanse.

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