

THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.941 OF 2015

DISTRICT: MUMBAI

Shri Pradeep Balkrishna Lonandkar,)
 Age : 56 years, Occ. : Service,)
 Assistant Police Commissioner (Armed),)
 Tardev Police Station,)
 Res : 5/1, Reva Apartment, B.D. Road,)
 Mumbai) **.. Applicant**

Versus

1. The State of Maharashtra,)
 Through the Secretary,)
 Home Department,)
 Office at Mantralaya,)
 Mumbai 400 032)
2. The Director General and Inspector General)
 of Police (M.S.), Mumbai,)
 Having office at Old Council Hall,)
 Shahid Bhagatsingh Marg,)
 Mumbai 400 039.)
3. The Commissioner of Police,)
 Crawford Market, Mumbai.) **..Respondents**



Shri D.B. Khaire, the learned Advocate for the Applicant.

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

CORAM : JUSTICE SHRI A.H. JOSHI, CHAIRMAN

RESERVED ON : 14.03.2016.

PRONOUNCED ON : 16.03.2016.

J U D G M E N T

1. Heard Shri D.B. Khaire, the learned Advocate for the Applicant and Shri A.J. Chougule, the learned Presenting Officer for the Respondents.
2. Perused the record annexed to O.A. and the affidavit-in-reply.
3. Applicant's date of birth recorded in service record is 31.12.1957. Applicant is claiming for correction of date of birth as 31.12.1958, corresponding to the year recorded in Municipal record of his birth certificate.
4. Applicant was employed in 1986. He claims that soon after appointment, some time in 1987, he had applied for correction of his date of birth.
5. After Applicant's date of retirement was notified, he submitted an application dated 13.08.2014, and requested for correction in his date of birth in service records.
6. Applicant has relied on the fact of registration of his birth date to be 31.12.1958, and his brother's date of registration of birth which is dated 04.05.1957 to show his claim to be based on factuality and being truthful.
7. The question which arises for consideration is as to whether :

Was Applicant's claim for change in the service record of date of birth was liable to be favourably considered ?

8. Instruction No.1 in Rule 38(2)(f) of the Maharashtra Civil Services (General Conditions of Services) Rules, 1981 lays down that a claim for change in record of date of birth has to be made within 5 years from date of entry in employment. Relevant text of the aforesaid rule is quoted below :

“38. Procedure for writing the events and recording the date of birth in the service book :

(1)

(2)

(f) When once an entry of age or date of birth has been made in a service book no alternation of the entry should afterwards be allowed, unless it is known that the entry was due to want of care on the part of some person other than the individual in question or is an obvious clerical error.

Instruction – (1) Normally, no application for alteration of the entry regarding date of birth as recorded in the service book or service roll of a Government servant should be entertained after a period of five years commencing from the date of his entry in Government service.”

(Quoted Rule 38(2)(f) with Instruction - (1) of the MCS (General Conditions of Services) Rules, 1981)

9. Applicant has pleaded that he had submitted application for correction in date of birth, but he does not have its evidence, such as its copy, acknowledgement, reminder etc.. Application submitted by him recently is done by him at the fag end of service, and when his retirement was due.

10. For seeking any direction from this Tribunal, the Applicant has to show that the action of the Government in declining to concede to Applicant's request for change in the record of his date of birth is vitiated due to any illegality. The applicant has failed to show any such illegality or failure on the part of Respondents to act to according to rules.

11. On the other hand, Applicant has failed to prove that he had applied for correction in date of birth within five years from the date of entry in employment and that the Government was at wrong in not deciding it or deciding it with some illegality.

12. Had Applicant's application for correction of date of birth been pending, and the cause was kept alive, the case may have had a different foundation. Applicant has failed to prove that his claim for correction in record as to his date of birth was pending and hence it is hard to believe that the Government did not decide Applicant's application it since 1987.

13. In the result, this Tribunal holds that the applicant has failed to prove that he has applied for correction of his date of birth in service record within five years of entry in Government service. Hence, Applicant's retirement on 31.12.2015 as per date of birth on record, is in conformity with rules. No relief whatsoever can be granted to the Applicant.

14. Therefore, Original Application is dismissed. Parties shall their bear own costs.

Sd/-

(A.H. Joshi, J.)

Chairman

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