

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.72 OF 2019**

**(Subject :- Correction In Date of Birth)**

**DISTRICT : AHMEDNAGAR**

**Lalit s/o Gangaram Pandule,** )  
Age:56 Yrs., Occu: Service )  
(as Incharge PI, Shani )  
Shingnapur P.S., Tal. Newasa), )  
R/o: Room No.17, Vitthal Plaza, )  
1<sup>st</sup> Floor, Shani Shingnapur, )  
Tal. Newasa, Dist. Ahmednagar. )...**Applicant**

**V E R S U S**

1. **State of Maharashtra ,** )  
Through its Addl. Chief )  
Secretary Home Department, )  
M.S., Mantralaya, Mumbai – 32. )
2. **The Director General of Police,** )  
Maharashtra State Police HQ, )  
Old Council Hall, Shaheed )  
Bhagat Singh Marg, )  
Mumbai-01. )
3. **The Superintendent of Police,** )  
Ahmednagar, State Highway 60, )  
Near DSP, Chowk, )  
Mukundnagar, Ahmednagar. ) **....Respondents.**

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**Shri A.S. Deshmukh, learned Advocate for the Applicant.**

**Shri V.R. Bhumkar, learned Presenting Officer for the Respondents.**  
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**CORAM** : **B.P. Patil, VICE CHAIRMAN**

**RESERVED ON** : **18.06.2019.**

**PRONOUNCED ON** : **23.07.2019.**

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**ORDER**

1. The Applicant has challenged the order dated 12.11.2018 issued by the Respondent No.2 by which his request for correction in his date of birth in service record has been rejected by filing the present Original Application.

2. Parents of the Applicant namely Shri Gangaram Hausaji Pandule and Smt. Chhabubai Baburao Bodke married on 8.2.1962 in the 'Shrikrishna Mangal Karyalaya' at Alandi Devachi in Pune District as per Hindu rites. Out of their legal way, the Applicant was born to them on 25.1.1963 in the Tarachand Hospital, Pune. After his birth his parents got prepared his horoscope from one pandit Shri Aatmanand Shivanand Shastri on 24.3.1963.

3. It is contention of the Applicant that his date of birth has been recorded in the register of birth and death registration

department of Pune Municipal Corporation accordingly. It is his contention that he is only child born to his parents. It is contention of the Applicant that he was admitted to the 'Kailashwasi Vimlabai Badade Shishu Balwadi Shala' in Pune by his parents on 14.06.1970 in the 1<sup>st</sup> standard. He left the said school on 30.5.1972 to pursue higher education. While admitting said school, his date of birth was correctly recorded as 25.1.1963. Thereafter, he has admitted to the R. Shinde Primary School in the 3<sup>rd</sup> Standard on 1.6.1972. But while admitting in the said school, his date of birth has wrongly recorded as 1.06.1961 and thereafter, the same continued in the school record.

4. In the year 1989, he entered the service of the Government of Maharashtra in Home Department as a directly recruited Police Sub Inspector (PSI) on the basis of selection and recommendation made by Maharashtra Public Service Commission (MPSC). Thereafter, he was sent to Police Training Centre (PTC in short) at Nashik to undergo requisite training of PSI. Accordingly, he joined Police Training Center at Nashik. After submitting the joining report, the Applicant immediately submitted an application dated 14.7.1989 to the Principal of PTC

and requested to make correction in his date of birth recorded in the service record. He has also informed him that he made application to the Collector and the Director of Education for making correction in his date of birth. Concerned authority of PTC informed him that his application along with relevant documents was forwarded to the Government as power to effect requisite correction in his date of birth is vested in the Government. After completion of successful training in PTC, he was posted in the Gadchiroli District and he joined the service immediately. After joining at Gadchiroli he immediately made another application dated 7.11.1990 to the Superintendent of Police (SP), Gadchiroli requesting to correct his date of birth as 25.1.1963. The said application was forwarded to DIG, Nagpur and to the Respondent No.2- DGP, M.S. Mumbai. As there was no response from the Respondents, he moved another application dated 23.8.1992 to the S.P., Gadchiroli and forwarded copies to the DIG, Nagpur and the Respondent No.2-DGP, Mumbai reiterating his request for correction in date of birth. But no response was received to him. Thereafter, he was transferred to various places in various districts. He had made several applications to concerned authorities also with the same request.

But nobody took cognizance of his request. After joining his duty in Ahmednagar District, he filed applications dated 9.10.2016, 13.10.2016 and 21.9.2018 for correction in his date of birth recorded in service record. In response to the applications made by the Applicant, the Respondent No.1 informed him by letter dated 12.10.2018 that his application for correction in date of birth has been forwarded to the DGP, M.S., Mumbai, for necessary action.

5. It is contention of the Applicant that as per the provision of Instruction No.3 of Rule 38 of the Maharashtra Civil Services (General Conditions of Services) Rules, 1981, all the cases relating to alterations of date of birth of Gazetted Government servants should invariably be refereed to General Administration Department and the Finance Department through the Administrative Department concerned. It is his contention that the Respondent No.1 has wrongly sent his application to the Respondent No.2 in violations of the said provision. It is his contention that on 12.11.2018, the Respondent No.2 rejected his application on the ground that his request for correction in the date of birth was not made within five years from the date of

entry in service and he had not provided relevant documents supporting of his claim.

6. It is contention of the Applicant that the impugned order is in contravention of the provisions of Rule 38 of MCS (General Conditions of Services) Rules, 1981. It is his contention that the Respondent No.2 has wrongly held that he had not moved an application within five years from the date of entry in the Government service. It is his contention that he had moved the application in the year 1989 and thereafter also. But the Respondent No.2 had not considered the said aspect. It is his contention that he has provided relevant documents along with the application but the Respondent No.2 had not considered the same. It is his contention that the impugned order is illegal. Therefore, he has prayed to quash and set aside the impugned order by allowing the Original Application.

7. The Respondent Nos.2 and 3 have filed their affidavit-in-reply and resisted the contention of the Applicant. They have not disputed the fact that the Applicant was appointed as PSI on 15.6.1989. Thereafter, he was promoted as API and PI on 8.5.2001 and 13.9.2008 respectively. It is their contention that

Yavatmal is his home district and his date of superannuation is 31.5.2019. It is their contention that the Applicant has submitted his applications for change in his date of birth dated 9.10.2016, 13.10.2016 and 21.9.2018 to his office. The office after taking cognizance of the application made by the Applicant on 9.10.2016, communicated him by letter dated 24.4.2017 and informed him that they have to trace out correspondence made with them and after tracing out correspondence in respect of the said request, the appropriate decision would be taken and would be communicated to the Applicant. After receiving communication from the Desk Nos.IV, V and S.P., Ahmednagar, their office took a conscious decision after scrutiny of the application made by the Applicant on 9.10.2016, 13.10.2016, 30.5.2017, 21.9.2018 and documents appended to it and turned down his request to change the date of birth from 1.6.1961 to 25.1.1963 by order dated 12.11.2018 and accordingly the Applicant was informed through the S.P., Ahmednagar.

8. It is their contention that the Applicant had not followed the matter since 23.8.1992 and he started to follow the same only from 9.10.2016. It is their contention that the Applicant had not submitted any cogent/justifiable documents

other than the certificate issued by the Hospital in the year 1997 and therefore, his request regarding correction in his date of birth has been rightly rejected. It is their contention that in the similar and identical case of police personnel viz. one Shri F.N. Patil, the Respondents have rejected the application. It is their contention that the impugned order is not in contravention of the Rule 38 of M.C.S. (General Conditions of Services) Rules, 1981 and there is no illegality in the impugned order. Therefore, they supported the impugned order and prayed to reject the Original Application.

9. I have heard Shri A.S. Deshmukh, learned Advocate for the Applicant and Shri V.R. Bhumkar, learned Presenting Officer for the Respondents. I have perused the documents on record.

10. Admittedly, Shri Gangaram Hausaji Pandule and Smt. Chhabubai Baburao Bodke were parents of the Applicant. Admittedly, the Applicant has been appointed as a directly recruited Police Sub Inspector (PSI) in the Home Department on the basis of selection and recommendation of the Maharashtra Public Service Commission and accordingly, he joined the said



post on 15.06.1989. Admittedly, after joining the post, he was deputed to police training center, Nashik for undergoing requisite training for the post of PSI. Admittedly, after completion of his training, he was posted as PSI in Gadchiroli District. He was promoted as A.P.I. and P.I. on 8.5.2001 and 13.09.2008 respectively. Admittedly, at the time of joining the service his date of birth has been recorded in the service record as 1.6.1961. On the basis of said date, he retired from the service on 31.5.2019 on attaining the date of superannuation. Admittedly, the Applicant made applications with the Respondents for correction in his date of birth. But his request for correction in date of birth has been turned down by the impugned communication dated 12.11.2018.

11. Learned Advocate for the Applicant has submitted that the impugned order is in contravention of the rules provided and therefore, the same requires to be quashed and set aside. He has submitted that immediately after joining the service Applicant moved an application to the Principal of Police Training Center, Nashik for correction of his date of birth. Not only this, but thereafter, he moved another applications in the year 1989 and thereafter also. But no cognizance of his applications has

been taken by the Respondents. He has argued that the Applicant has moved an application within stipulated time period after joining the service. But the Respondent No.2 has wrongly rejected the communication of the Applicant on the ground that it was not filed within five years from the date of joining the service in view of the G.R. dated 3.3.1989. Therefore, he has prayed to allow the Original Application.

12. Learned Advocate for the Applicant has further submitted that the Applicant was serving as Gazetted Officer. In view of the provision of instruction No.3 of Rule 38 of the M.C.S. (General Conditions of Services) Rules, 1981, all the cases relating to alternations of Gazetted Government Servants should invariably be referred to the General Administrative Department and the Finance Department through the Administrative Department concerned. He has submitted that the Respondents ought to have referred the case of the Applicant to the General Administrative Department and Finance Department in view of the said provision. But the Respondent No.2 has decided it at his level which is illegal and therefore, he prayed to quash and set aside the impugned order. He has further submitted that the Applicant has produced ample documents before the Respondent

No.2 regarding his correct date of birth. He produced the copies of the birth register maintained by Municipal Corporation, Pune, certificate issued by hospital and horoscope. But the Respondent No.2 wrongly rejected his request. On that ground also, he prayed to allow the Original Application.

13. Learned P.O. for the Respondents has submitted that after filing the application upto year 1992, the Applicant had not followed the matter and he kept mum. Thereafter, he filed the application in the year 2016 when he was on the verge of the retirement. He has submitted that there was negligence on the part of the Applicant. The application moved by the Applicant in the year 2016 was not within prescribed period of limitation i.e. within the period of 5 years from the date of joining the service and therefore, the Respondent No.2 has rightly rejected the application of the Applicant. He has submitted that the Respondent No.2 has considered the documents produced by the Applicant and thereafter took conscious decision and turned down claim of the Applicant. There is no illegality in the impugned order and therefore, he has prayed to reject the Original Application.

14. On perusal of documents produced by the Applicant on record it reveals that the Applicant joined the service as PSI on 15.6.1989. On joining the service, he was deputed at Police Training Center, Nashik for undergoing training for the post of PSI. After joining the Police Training Center, the Applicant moved an application dated 14.7.1989 addressed to Principal, P.T.C., Nashik for correction of his date of birth. The Principal, P.T.C., Nashik forwarded the said application to the Government by making endorsement dated 5.11.1989. But no response was received to the Applicant. Thereafter, he moved another application dated 7.11.1990 addressed to the S.P., Gadchiroli as he was serving there at that time and produced the documents along with that. He had forwarded the copy of the said application dated 7.11.1990 to Director General of Police, Mumbai and DIG, Nagpur. But no decision has been taken by the Respondents. Therefore he moved another application dated 23.08.1992 addressed to the S.P., Gadchiroli and forwarded the copies to GDP, Mumbai and DIG, Nagpur. The copies of the said documents produced by the Applicant at page no.31 to 36 show that the Applicant had approached the Competent Authority immediately after joining the service and requested to correct his

date of birth. Not only this but in subsequent communications addressed to Respondent No.2 dated 9.10.2016, 13.10.2016 and 21.9.2018, he had mentioned about earlier correspondents made by him. But the Respondent No.2 had not considered the earlier applications filed by the Applicant and rejected the request of the Applicant on the ground that the Applicant has filed the application beyond the period of limitation prescribed in the G.R. dated 3.3.1998. The Respondent No.2 has not considered the said facts with proper perspective. He ought to have taken in to consideration the earlier applications filed by the Applicant since the year 1989 towards while deciding his claim. But without considering the same he has wrongly held that the Applicant had filed the Application beyond period of limitation. Therefore, on that ground, the impugned order is not legal one.

15. It is material to note here that the Applicant has also produced several documents i.e. extract of birth certificate issued by Municipal Corporation, Pune, School leaving certificate, certificate issued by hospital in support of his claim. But the said documents have not been considered by the Respondent No.2 while rejecting his claim. Therefore, the impugned order is not illegal one.

16. It is also material to note here that instruction no.3 of Rule 38 of the MCS (General Conditions of Services) Rules, 1981 provides that all cases relating to claims of date of birth of Gazetted Government Servants should invariably be referred to General Administrative Department and Finance Department through the Administrative Department concerned. The Applicant was serving as Gazetted (Class-1) Officer. Therefore the Respondent No.2 ought to have referred the application/case of the Applicant to GAD and F.D. in view of the said provision. But the Respondent No.2 decided the claim of the Applicant at his level without referring the matter to the G.A.D. and F.D. The said act on the part of the Respondent No.2 is in contravention of said provision and therefore, it requires to be quashed and set aside by allowing the Original Application.

17. In view of the discussion in the foregoing paragraphs, the Original Application is allowed. The impugned order dated 12.11.2018 rejecting the claim of the Applicant regarding correction in his date of birth recorded in his service record is hereby quashed and set aside. The matter is remanded back to the Respondents to take appropriate decision on the applications

of the Applicant filed since 1989 as per the provision of M.C.S. (General Conditions of Services) Rules, 1981 and as per the G.R dated 3.3.1998 within three months from the date of this order by giving an opportunity of hearing to the Applicant and communicate its decision to the Applicant in writing. No order as to costs.

**PLACE :- AURANGABAD.**  
**DATE :- 23.07.2019**

**(B.P. PATIL)**  
**VICE CHAIRMAN**

Sas. O.A.No.72 of 2018.Correction in date of birth. BPP VC