

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO.824/2015

Vishwanath Karu Kokode,
Aged about 57 years,
ACF, Chandrapur,
R/o Forest Deptt. Quarter,
Chandrapur.

-----**Applicant.**

Versus

1. Govt. of Maharashtra,
Through its Secretary,
Revenue and Forest Deptt.
Mantralaya, Mumbai.
2. The Principal Chief Conservator of Forest,
(Forest Force Head),
(Maharashtra State) Nagpur.
3. The Additional Principal Chief Conservator
Of Forest, (Administration Sub-ordinate Cadre)
M.S., Nagpur.
4. The Chief Conservator of Forest (Territory),
Nagpur Forest Circle, Nagpur
5. The Chief Conservator of Forest (Territory)
Chandrapur.
6. The Chief Conservator of Forest (Territory),
Gadchiroli Forest Circle, Gadchiroli.
7. The Chief Conservator of Forest (Education and
Training),
Pune Forest Circle, Pune.

8. The Director (Forest Administration ,
Development and Management),
Chandrapur Forest Circle, Chandrapur.

9. Asstt. Conservator of Forest, Gondia
Forest Circle, Gondia.

----- **Respondents.**

1. Shri R.D. Murkute, Advocate for the applicant.

2. Shri D.M. Kakani, Special counsel for the Respondents.

CORAM : B. Majumdar : Vice Chairman

DATE : 28th April, 2016

ORDER

The applicant is an Asstt. Conservator of Forest (ACF). He has filed this O.A. praying that his date of birth should be considered as 26/9/1959 as recorded in the birth register instead of 18/5/1958 as recorded in his service book. He was appointed as a Range Forest Officer (RFO) on 9/10/1989. According to him, on 20/9/1994 he had submitted a representation to the Dy. Conservator of Forests, Gondia for a change in his date of birth to 26/9/1959 as per birth register.

He was promoted as an ACF in 2013. On 8/4/2015 and 9/9/2015 he made further representations for change in his date of birth as above. On 29/9/2015 the Additional Principal Chief Conservator of Forests, Nagpur (R/3) asked the Chief Conservator of Forests, Gadchiroli (R/6) for a report on the above issue. On 25/3/2015 the Asstt. Conservator of Forests, Gondia (R/9) under RTI informed the applicant that as the relevant records have been destroyed it was not possible to verify about receipt of his application dtd. 20/9/1994. On 26/2/2016 the Dy. Conservator of Forests, Gondia informed the Chief Conservator of Forests, Nagpur (R/4) that records about receipt of the applicant's representation dtd.20/9/1994 are not traceable, the applicant's original service book is not available with him and that the details regarding the applicant's date of birth are being sought from the Collector, Bhandara as well as the applicant.

2. The applicant submits that he had submitted his representation on 20/9/1994 for a change of his date of birth and the respondents cannot deny that this was not received by

them. He had submitted several representations thereafter and R/3 had asked for the report in this regard from R/6 but no further action took place.

3. R/2 to R/9 in their affidavit-in-reply submit as follow :-

“ It is submitted here that, the Applicant has claimed that he has moved an application on 28/09/1994 for change of his date of birth in the Service Book is totally incorrect. It is submitted here that, the Respondent Department after the receipt of the copy of the Original Application has verified the entire record and it is found that the Applicant has not submitted any application to the Office of Deputy Conservator of Forest, Gondia Forest Division, Gondia and no Inward Entry of the said application is found. It is also submitted here that the conduct of the Applicant itself shows that the Applicant on the basis of false and bogus documents is trying to pursue his case. Any prudent man at least a Class-II employee will not wait for such a long period till the fag end of his service for correction of his date of birth in the

Service Book. It is submitted here that, bare perusal of the communication dated 9/9/2015, this Hon'ble Tribunal will find that the Applicant has referred two communications dated 20/9/1994 and 8/4/2015. From the said communications it is clear that the Applicant has not made any communication between 20/9/1994 to 8/4/2015 to the higher-ups. "

4. They further submit that column no. 3 of the extract of birth register submitted by the applicant mentions the date of birth as 26/9/1959, whereas, under column no. 5 (Date of reporting the birth) the date is given as 9/1/1959. This is impossible as the child's name cannot be reported before its birth takes place as is shown to have happened in the present case. They also submit that every year the respondents have been circulating the seniority list in which the date of birth of each and every employee is shown. The applicant never in the past had raised any objection about the entry of his birth in any of the above seniority lists.

5. Shri R.D. Murkute, Id. Counsel for the applicant submitted that the applicant had applied for change of date of birth within 5 years of appointment as required under 'Instructions' under Rule 38 of the Maharashtra Civil Services (General Conditions of Service) Rules, 1981. He drew my attention to a photocopy of the above representation to show that it was received by the Dy. Conservator of Forest, Gondia on 27/11/1994. As regards the objections of the respondents to the entry in various columns of extract of birth register, he submitted that whatever documents the applicant had received from the concerned office of the Collector, he had submitted them to the respondents.

6. Shri D.M. Kakani, Id. Special Counsel for the respondents reiterated the submissions made by them in the reply.

7. I find that it is undisputed that the applicant does not dispute that after submission of his representation dtd. 20/9/1994 along with an extract of birth register of

Collector, Bhandara, and till his subsequent representation dtd. 8/4/2015, which was sent when he was close to superannuation, he did not at all agitate on the issue. He is aware that to retrieve the relevant records after 12 years may be difficult as most records are routinely destroyed after a certain lapse of time. I also find that the extract of the birth register, Annexure-A-5 has been rightly held by the respondents to be suspect. Column 3 of the statement titled as ' होण्याची तारीख ' shows the date as 26/9/1959. Column no. 5 (जन्मलेल्याचे नावाची रिपोर्ट देण्याची तारीख) shows the date as 9/1/1959. Thus if these records to be accepted, the report regarding his birth was made to the registry more than 8 months prior to his birth. This is obviously absurd. Even if it is to be presumed that there were some clerical mistakes in recording the dates, it is rather surprising that the applicant never took any step to ensure that corrections are made by the registry in his birth record. This is relevant as he had obtained a copy of the extract on 4/9/1992. I therefore do not find this document to be reliable.

8. Rule 38 of the MCS (General Conditions of Services) Rules, 1991 deals with the issue of procedure for writing the events for recording the date in the service book. Rule 38 (2)(f) states as follows :-

“When once an entry of age or date of birth has been made in a service book no alteration 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”

9. The applicant however could not demonstrate, nor is it his averment, that the original entry of his date of birth in the service book was either a clerical mistake or there was any carelessness on the part of the concerned officials. Hence I find that the applicant has failed to make out a case for reconsidering his date of birth as recorded in his service book.



The O.A. therefore is devoid of any merit stands rejected with no order as to costs.

sd/-

(B. Majumdar)
Vice-Chairman.

Skt.