

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION 657 OF 2014

DISTRICT : MUMBAI

Shri Vijay Laxmanrao Tribhuwan,)
Dy. Superintendent of Police, PCR)
Office of Director General of Police,)
Maharashtra State, Mumbai and residing)
102, 'A' Wing, Simran Residency CHS)
Plot No. 21, Sector No. 7, Khargar,)
Navi Mumbai .)...**Applicant**

Versus

1. Government of Maharashtra)
Through Addl. Chief Secretary,)
Home Department, Mantralaya,)
Mumbai 400 032.)
2. Director General of Police,)
Old Council Hall, Colaba,)
Mumbai.)...**Respondents**

Shri C.T Chandratre, learned advocate for the Applicant.

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

CORAM : Justice Shri A.H. JOSHI (Chairman)

DATE : 20.09.2016

J U D G M E N T

1. Heard Shri C.T Chandratre, learned advocate for the Applicant and Shri A.J Chougule, learned Presenting Officer for the Respondents.
2. Applicant has challenged the order dated 3.7.2014 by which Respondent has refused to correct Applicant's date of birth entered in its record.
3. Admittedly, Applicant entered Government service after selection through M.P.S.C on the post of Sub-Inspector, in 1981. He completed his training and was posted as Probationer P.S.I on 19.1.1982.
4. Applicant claims that:-
 - (a) According to the Applicant's memory, he was born after the Sayukta Maharashtra Movement, i.e. after 1960 and hence the date of birth claimed by him is correct.
 - (b) His date of birth entered in school record is 14.10.1956.
 - (c) He requested for correction in the date of birth after obtaining a direction from the Judicial Magistrate, First Class, Vaijapur to record his date of birth to be 14.10.1960 in birth register.

- (d) He also got his date of birth claimed by him to be 14.10.1960 notified in the official gazette
- (e) Applicant requested and has pursued his request for correction in service record as to the date of birth from 14.10.1956 to 14.10.1960.
- (f) Respondent's request was rejected.
- (g) He is before this Tribunal for direction for correction in service record, the date of birth claimed by him.

5. Applicant has annexed to Original Application at page 29 and 30, copies of register of access to School showing his admission to pre-primary class and another to 1st standard. It is seen from page 29, the copy of the Admission Register that Applicant took admission for pre-primary class on 12.6.1963. From page 30 it is seen that applicant took admission for 1st standard on 6.10.1965. He has relied on the entry in birth register of village relied upon by the Applicant is based on a direction obtained by him from the Judicial Magistrate, First Class, Vaijapur, regarding his entry in birth register.

6. Now, this Tribunal has to decide as to whether applicant is entitled to correction of de of birth claimed by him in his service record.

7. It is evident that the applicant has sought the direction from Magistrate for recording of date of birth in the birth register.

8. The J.M.F.C, Vaijapur gave a direction on 21.1.1991 to record applicant's date of birth after he had completed more than 9 years in Government service.

9. The Tribunal has to take Judicial notice of the fact and legal position that Magistrate orders an entry of date of birth to be made in the register upon an application and affidavit in support.

10. It is evident that:-

- (a) Applicant is relying on entry in the Birth Register which is not the entry made in due course, by a Public Officer.
- (b) Applicant's claim that his date of birth is 14.10.1960, is based on guess work as is evident from his own statements and version.
- (c) At no point of time, the Applicant has claimed that he seeks support at least of the affidavit of his parents or any other collateral evidence.

11. The order of the Judicial Magistrate, First Class, to enter the date of birth claimed by the Applicant does not have evidentiary value of the fact and the truth that Applicant's date of birth is 14.10.1960. It only proves that such direction was issued.

12. Moreover by all permutations and combinations, the date of birth claimed by applicant to be 14.10.1960 is highly improbable. It is vivid that when the Applicant may have been taken to Pre-Primary School as claimed by him on

12.6.1963, he must have gone to the school by crawling and not even on his own feet with a finger in his parent's palm.

13. If Applicant's date of birth as claimed by him had to be 14.10.1960, his age at the time of his admission in the Pre-Primary School would come to 2 years and 8 months and when he was admitted in 1st standard he is of the age of 4 years and 8 months.

14. Applicant's claim does not inspire any confidence. Decision taken by the competent authority refusing to correct Applicant's date of birth cannot be faulted just for the wish of the Applicant.

15. Original Application has no merit and is dismissed with costs.

Sd/-
(A.H Joshi, J.)
Chairman

Place : Mumbai
Date : 20.09.2016
Dictation taken by : A.K. Nair.