

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 739 OF 2015

DISTRICT: - DHULE.

Devidas Nathu Patil
Age: years, Occ: Service
As Talathi at Warkhede,
Tq. Dist. Dhule
R/o. 17 Rajendra Nagar, (Mahindale)
C/o Sidodiya, Police
Sakri Road, Dhule
Tq. Dist. Dhule.

.. APPLICANT.

V E R S U S

1. The State of Maharashtra,
Through: Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai 32.

(Copy to be served on the C.P.O.,
MAT, Aurangabad).

2. The Collector, Dhule.

3. The Sub Divisional Officer
(Tahsildar), Dhule.

.. RESPONDENTS.

APPEARANCE : Shri S.D. Dhongde – learned
Advocate for the applicant.

: Shri M.P. Gude – learned Presenting
Officer for the respondents.

**CORAM : HON'BLE SHRI J.D. KULKARNI,
MEMBER (J)**

J U D G M E N T**[Delivered on 8TH September, 2016]**

This original application has been filed by the applicant viz. Devidas Nathu Patil, Talathi, Warkhede, Tq. Dist. Dhule, for quashing the impugned communication dated 16.7.2015 issued by the respondent No. 3, Sub-Divisional Officer (Tahsildar), Dhule. Vide impugned communication the applicant's claim for correction of his date of birth has been rejected. The applicant is claiming that his correct date of birth is '8.8.1960'; whereas the same has been inadvertently recorded as '1.6.1959'.

2. The respondents rejected the claim of the applicant on the ground that an application for correction of date of birth was not filed within five years from the date of entry in the service.

3. The applicant was appointed as Talathi and he joined in the said post on 18.8.1983. On 21.10.2004 the applicant applied for copy of the extract of birth and death register maintained at his native i.e. Pimpalner, Tq. Sakri,

District Dhule. From the said entry he came to know that his entry regarding date of birth was appearing at Sr. No. 185 and his date of birth was '8.8.1960'. However, in the service record, the same was inadvertently recorded as '1.6.1959'.

4. The applicant accordingly applied for correction of date of birth on 19.6.2015 and his request for correction of date of birth was rejected vide the impugned communication dated 16.7.2015.

5. The respondents justified the rejection of the claim of the applicant. It is stated that unless and until the entry of date of birth is result of any negligence or typographical mistake, the same cannot be changed. It is further submitted that the Circular dated 3.3.1998 specifically provides that if any employee, who wants to make change in the date of birth, he shall apply within five years from the date of joining of service.

6. Heard Shri S.D. Dhongde – learned Advocate for the applicant and Shri M.P. Gude – learned Presenting Officer

for the respondents. I have also perused the affidavit, affidavit in reply filed by the respondents and various documents placed on record by the respective parties.

7. The only material point is to be considered as to whether rejection of applicant's request for correction of date of birth is legal and proper?

8. It is material to note that from the facts of the case discussed in earlier paragraph, it will be clear that the applicant has joined service on 18.8.1983 and admittedly he has made an application for correction of date of birth on 19.6.2015. The applicant wants to make out a case that he came to know about his correct date of birth when he applied for copy of the extract of birth and death register on 21.10.2004. Even for argument's sake this is accepted, it is not known as to why the applicant remained silent from 21.10.2004 till filing of this original application on 11.8.2015. The applicant has also not made it clear as to what was the reason for him to make an application for getting copy of extract of birth and death register. Issue as regards correction of date of birth

has been finally disposed of by the Hon'ble Apex Court through various pronouncements and it is cardinal principle that such application for correction of date of birth cannot be accepted at the fag end of the service and, therefore, on this sole count the application is liable to be rejected.

9. The learned Presenting Officer has invited my attention to Rule 38 (2) (f) of the Maharashtra Civil Services (General Conditions of Services) Rules, 1981.

The relevant section of the said rule reads as under: -

“38. Procedure for writing the events and recording the date of birth in the service book.- (1) In the service book every step in a Government servant's official life, including temporary and officiating promotions of all kinds, increments and transfers and leave availed of should be regularly and concurrently recorded, each entry being duly verified with reference to departmental orders, pay bills and leave account and attested by the Head of the Office. If the Government servant is

himself the Head of an Office, the attestation should be made by his immediate superior.

(2) While recording the date of birth, the following procedure should be followed :-

(a)

(b)

(c)

(d)

(e)

(f) 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.

Instruction.-(1) No application for alteration of the entry regarding date of birth as recorded in the service book or service roll of a Government servant, who has entered into the Government service on or after the 16th August 1981, shall be entertained after a period of five years

commencing from the date of his entry in Government service.”

10. The applicant could not bring on record any material to show that he was not responsible for recording of wrong date of birth. On the contrary, it seems that whatever date of birth of the applicant was recorded was as per the instructions given by the applicant and as per the S.S.C. certificate produced by the applicant and, therefore, the applicant himself was negligent in submitting the incorrect date of birth.

11. The learned Advocate for the applicant placed reliance on the judgment delivered by the ***Bombay High Court*** reported in ***WRIT PETITION NO. 6531/2006 in the case of GORAKHNATH S. KAMBLE VS. THE STATE OF MAHARASHTRA & ORS. on 19th January, 2007.*** I have carefully gone through the said judgment. The said judgment however, is not applicable to the present set of facts.

12. In view of the discussion in foregoing paragraphs, it will be clear that the applicant could not place on record

the exact date and source of his knowledge for filing application for correction of date of birth. In fact, no convincing reason is given in the application for making such application for correction of date of birth at the fag end of the service.

13. In view of this, I do not find any merit in the present original application. I am of the opinion that the impugned communication is legal and proper and needs no interference. Hence, I pass the following order: -

ORDER

The present original application stands dismissed with no order as to costs.

MEMBER (J)

O.A.NO.739-2015(HDD)