

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.970 OF 2017

DISTRICT : MUMBAI

Kazi Syed Nuroddin S/o Syed Nasiruddin,)
Age 57 years, Sub Registrar (Mumbai),)
R/o Labour Colony, DRT No.38, Latur,)
At present Kandivali, Lokhandwala Complex, Mumbai)..Applicant

Versus

1. The State of Maharashtra,)
Through Secretary, Revenue Department,)
Mantralaya, Mumbai)
2. Principal Secretary,)
Finance Department, Mantralaya, Mumbai)
3. Accountant General, Nagpur)
4. Director General of Stamps & Registration,)
Maharashtra State, Pune-1)
5. Joint District Registrar, Class-I,)
Sub Division Bandra, Mumbai)
6. Shri Shivaji Vidya Mandir High School,)
Through its Head Master, Labour Colony, Latur)
7. Maharashtra State Board of Secondary and)

Higher Secondary Education, Division Latur,)

Through its Chairman,)

8. The Head Master,)
 Zilla Parishad School (Boys),)
 Latur (Bhatkheda), Tq. & District Latur)..Respondents

Shri G.L. Deshpande – Advocate for the Applicant

Shri N.K. Rajpurohit – Presenting Officer for the Respondents

CORAM : Shri P.N. Dixit, Member (A)

DATE : 15th February, 2018

J U D G M E N T

1. Heard Shri G.L. Deshpande, learned Advocate for the Applicant and Shri N.K. Rajpurohit, learned Presenting Officer for the Respondents.

2. The applicant has filed the present OA challenging the order dated 28.9.2017 (Exhibit A-8 page 29 of the OA) passed by respondent no.4 rejecting his application dated 4.9.2017 for correction in date of birth. The said order dated 28.9.2017 reads as under:

“विषय :- श्री. काङ्गी सय्यद नुरोद्दीन नसीरोद्दीन, सह दुय्यम निबंधक वर्ग-२ बोरीवली क्र.२ यांच्या सेवापुस्तकातील जन्म तारखेतील दुरुस्तीबाबत.

संदर्भ :- श्री. काङ्गी सय्यद नुरोद्दीन नसीरोद्दीन, सह दुय्यम निबंधक वर्ग-२ बोरीवली क्र.२ मुंबई उपनगर जिल्हा यांचेकडील दि.०४/०९/२०१७ रोजीचा अर्ज.

उपरोक्त विषय व संदर्भित पत्राच्या अनुषंगाने कळविण्यात येते की, श्री. काङ्गी सय्यद नुरोद्दीन नसीरोद्दीन, स.दु.नि. बोरीवली क्र.२ हे या विभागात दि.३१/१०/१९८५ रोजी लिपीक पदावर हजर झालेले आहेत व फेब्रुवारी-२०१८ मध्ये नियत वयोमानाने सेवानिवृत्त होत आहेत.

श्री. काझी सय्यद नुरोद्दीन नसीरोद्दीन यांनी त्यांच्या जन्मतारखेच्या नोंदीमध्ये दुरुस्त करून मिळणेबाबत अर्ज सादर केलेला आहे. त्याअनुषंगाने महाराष्ट्र नागरी सेवा (सेवेच्या सर्वसाधारण शर्ती) नियम-१९८१ मधील प्र.०४ नियम क्र.३८ मधील सूचना-१ व परिशिष्ट-१ अनु.क्र.१० नियम-३८(२ एफ) अन्वये सेवेत लागले पासून ०५ वर्षांच्या आत जन्म तारखेमध्ये दुरुस्ती करण्यासाठीचा अर्ज सादर न केल्यामुळे त्यांच्या अर्जाचा विचार करता येणार नाही.

Sd/-

(श्री.सी.ब. भुरकुडे)

नोंदणी उपमहानिरीक्षक (मुख्यालय)

महाराष्ट्र राज्य, पुणे.”

3. Ld. Advocate for the Applicant states that the date of birth of the applicant mentioned in SSC certificate is 22.2.1960 but his correct date of birth is 22.10.1960. It is the contention of the Ld. Advocate that the date of birth mentioned in the SSC Certificate is incorrect

4. Ld. Advocate for the Applicant states that the applicant entered the Government service on the post of Junior Clerk on 31.10.1985 on the basis of date of birth mentioned in the SSC Certificate which is 22.2.1960. At present the applicant is working as Sub Registrar (Mumbai) and due to retire on 28.2.2018 on superannuation.

5. The respondents have filed their reply and contested the claim of the applicant.

6. The Ld. Advocate for the applicant contended that he has given wrong date of birth at the time of application to the SSC Board and throughout it has been continued by the SSC Board. Ld. Advocate further contends that he has submitted an application to the SSC Board as an outside school student and accordingly the certificate was issued. He further states that SSC has committed a mistake. However, there is nothing on record to show that he approached the board throughout till he is about to retire for making any rectification.

7. Ld. PO pointed out that right from the date of joining till his present OA there was no request received for change in date of birth. It is only now he has come up with a plea that the date of birth mentioned in the SSC certificate is wrong. If the date of birth is wrongly mentioned in the SSC certificate the necessary correction should have been done by the SSC Board and then corrected SSC certificate should have been produced for making appropriate correction.

8. Ld. Advocate for the applicant has relied on the following judgments:

- (i) State of Maharashtra & Anr. Vs. Gorakhnath Sitaram Kamble & Ors. Civil Appeal No.9704 of 2010 decided by Hon'ble Supreme High Court on 16.11.2010.
- (ii) Vasudha Gorakhnath Mandvilkar Vs. City and Industrial Development Corporation of Maharashtra Ltd. 2008 Mh.L.J. 147.
- (iii) Shriniwas P. Karve Vs. The State of Maharashtra & Ors. Writ Petition No.2345 of 2015 decided by Hon'ble Bombay High Court, Aurangabad Bench on 22.4.2016.
- (iv) Shri Bhagavan M. Patil Vs. The State of Maharashtra & Ors. OA No.676 of 2015 decided by this Tribunal on 19.9.2016.

9. The judgments relied by the Ld. Advocate are not applicable in the present case as the facts are different.

10. The applicant, according to the averring by his Ld. Advocate, took his primary education up to standard VII in a school at District Latur and left the school. The applicant then decided to appear for SSC Board examination as a private student. According to the affidavit filed by the SSC Board, the applicant filled the form for examination in his own handwriting. Board contended, if the applicant had noticed that his date

of birth is recorded erroneously, he could have given an application to his school which would have then forwarded it with their recommendation to Education Officer and SSC Board for further action. However, the applicant preferred to remain silent till September, 2017 when he was 57 years old and on the verge of retirement. The Board further contended, Board prepared applicant's mark memo and Sanad, on the basis of material and evidence documents furnished by the applicant. As such, there is no fault on the part of the Board.

Therefore, the contention of the applicant that the SSC Board had made a mistake in recording his correct date of birth in his mark memo is without any merit. The applicant made a mistake, if any, by himself. Moreover, as a senior officer, when he became aware about the mistake, he did not approach the appropriate forum for rectification of the mistake.

11. The applicant has contested the order dated 28/09/2017 given by respondent no.4 and prayed that the order is arbitrary and hence be quashed and set aside. On the other hand, Learned PO has contended that the applicant had opportunity to file a representation to change his date of birth for five years from the date of joining in 1985. The applicant did not do so. Ld PO contended, the applicant had signed the first page of his service book in which his date of birth is entered. This shows that he was aware of the date of birth entered on this page. This is available at Exhibit R-1. Ld PO contended the date of birth entered in the Service Book was verified from and based on SSC School Certificate submitted by him at the time of entry. Ld PO contended the applicant was promoted in routine course of administration. The date of birth is mentioned on Seniority/ Gradation list which is published every year. Ld PO contended that the date of birth of applicant mentioned in Gradation list is 22/2/1960 and applicant never took objection for any of the gradation list published from time to time till today. The above details show that the

applicant was fully aware about the date of birth entered in Service Records and still remained silent about the same even beyond the time permitted to him to apply for correction if any till this O.A.

12. In view of the above, I find no merit in his prayer and do not see any arbitrariness in the Order issued by Respondent No.4 in rejecting request of the applicant under Rule 38(2)(f) Instruction (1) of the Maharashtra Civil Services (General Conditions of Services) Rules, 1981. I find there is no substance in the present OA. OA is dismissed.

Sd/-
(P.N. Dixit)
Member (A)
15.2.2018

Dictation taken by: S.G. Jawalkar.