



Serial No.03
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

W.A.No.21/2024

Reserved on: 07.05.2024

Pronounced on: 28.06.2024

Smti. Kloraris@Klolaris Marthong

..... Appellant

Vs.

1. State of Meghalaya represent by the Chief Secretary,
Government of Meghalaya.
2. Managing Director, MTDC Ltd., Shillong.
3. Chief General Manager, MTDC Ltd., Shillong.

..... Respondents

Coram:

Hon'ble Mr. Justice S.Vaidyanathan, Chief Justice
Hon'ble Mr. Justice W.Diengdoh, Judge

Appearance:

For the Appellant : Mr. P.K. Bora, Adv with
Ms. E. Nongbet, Adv
For the Respondents : Mrs. T. Yangi B., AAG with
Mr. S. Sengupta, Addl.Sr.GA

i)	Whether approved for reporting in Law journals etc.:	Yes
ii)	Whether approved for publication in press:	Yes

J U D G M E N T

(Made by Hon'ble, the Chief Justice)

The present Writ Appeal has been preferred, challenging the order dated 20.03.2024 of the learned Single Judge passed in WP(C)



No.16 of 2023, by which the writ petition was dismissed being devoid of merits.

2. The case put forth by the appellant was that she had completed VIII Standard and was employed in Pinewood Hotel, MTDC Ltd., under the Respondent Nos.2 and 3 herein (in short ‘the Employer’) as Chambermaid on 08.09.1986. At the time of applying for the post, she simply signed the application duly filled in by the Employer with good faith on them, which contained a wrong date of birth as **14.12.1964**. It was submitted that subsequently, she approached the Court for issuance of birth certificate, which was issued vide order dated 20.09.2019 and since there was a mistake crept therein, the appellant again filed one more application for correction of her date of birth and obtained a birth certificate based on the Court order dated 23.02.2022 from the Shillong Municipal Board on 09.03.2022, in which, her date of birth was recorded as **21.08.1966**.

2.1. It was further submitted that the appellant submitted various applications dated 28.07.2021, last one of which was 08.12.2022, requesting the Respondent Nos.2 and 3 to alter her date of birth on the basis of the Court order and the certificate of the Shillong Municipal Board, which was rejected by the Respondent No.3 on 23.12.2022 and



pursuant to the rejection of her request, the Respondent No.2 had issued the order dated 23.12.2022 of retirement, which was impugned before the learned Single Judge by filing WP(C) No.16 of 2023, as the appellant had suspected the action of the Respondent Nos.2 and 3 in entering a wrong date of birth in the original application.

2.2. It was also submitted that though she had obtained Aadhar Card, Pan Card and Epic Card in the year 2018, all contained wrong date of birth based on the previous Court order dated 20.09.2019, which had happened due to her own mistake in calculating the date from the certificate issued by the School. Thus, it was her grievance that the rejection of her representation, despite production of Court order was illegal and therefore, her retirement from service can, in a sense, be termed as termination from service, not a retirement. Since all her bona fide pleas were not considered by the learned Single Judge, the appellant is before this Court.

3. Learned Additional Advocate General has contended that based on the date of birth furnished by the appellant at the time of joining service, her date of birth was entered in the service record as 14.12.1964, based on which, the impugned order of retirement was issued, relieving her from service with effect from 31.12.2022. As per



The Meghalaya Fundamental Rules and Subsidiary Rules, 1984, any alteration of date of birth should be made before three years of the actual superannuation, beyond which, no application can be entertained.

For the sake of convenience, Note to S.R.8(c) is extracted hereunder:

“S.R.8(c) – Commissioner and Heads of Departments may alter the recorded date of birth in the case of non-gazetted government servants, provided they are satisfied, after enquiry, that the previous date was incorrect.

Note:- No alteration in the date of birth of a government servant should be allowed except in very rare cases where a manifest mistake has been made. Such mistake should be rectified at the earliest opportunity in the course of periodical re-attestation of the entries in the first page of Service Book. ***In no case request for change in the date of birth of a government servant made on a date within three years of the date of his actual superannuation should be entertained.”***

4. Learned Additional Advocate General has further contended that the petitioner, having failed to submit a representation within five years from the date of joining the service or before three years of her actual superannuation, cannot at a later point of time, seek alteration of her date of birth by taking her own sweet time, which is against the provisions of the Rules stated supra.

5. Heard the learned counsel for the parties and perused the material documents available on record.

6. The appellant had studied up to VIII Standard and secured a job in Pinewood Hotel, MTDC Ltd., based on the qualification acquired



by her. The grievance of the petitioner was that it was the employer, who had filled up the application with the wrong date of birth as **14.12.1964**, which she was not aware at that time. Be that as it may, this Court cannot give a go-by to the provisions of the Rules, which prescribe outer time limit of three years before retirement to entertain an application for correction of date of birth. Even according to the petitioner, the first application with the request to correct her date of birth was submitted only in the year 2021, whereas her actual date of superannuation fell on 31.12.2022 based on the date of birth furnished by her initially. That apart, she was not clear as to her actual date of birth for the reason that she had stated that due to arithmetic error in calculating her age, she was unable to provide the correct date of birth, which had resulted in obtaining an order from the Court on 20.09.2019 by indicating a wrong date of birth and thereafter, she had approached the Court and got an order, duly mentioning her date of birth as 21.08.1966. The petitioner had already attained the age of superannuation as early as on 31.12.2022. In Tamil Nadu, no Government Servant is entitled to seek for alteration of date of birth beyond five years of entry into service as per Rule 49 of the Tamil Nadu State and Subordinate Service Rules, whereas The Meghalaya



Fundamental Rules and Subsidiary Rules, 1984 permits to carry out such correction till the last moment, i.e., before three years of an employee's actual retirement.

7. One of us (CJ), while sitting singly at the Madras High Court, elaborately dealt with the issue in respect of correction of date of birth in the following cases and held as under:

i) ***S. Indhumathi vs. The Chief Secretary to Government, Chennai and others [W.P.No.16510 of 2018] decided on 11.07.2018;***

“7. It may be true that the petitioner was born on 17.07.1997, but for the purpose of entry into the school, the parents would have given the Date of Birth of the petitioner as 17.05.1997. If the actual Date of Birth 17.07.1997 is taken into account, then the entire qualification obtained by the petitioner/candidate will have to go, as she could not have been admitted in I Std. based on the date of birth, namely 17.07.1997. In order to admit the petitioner/student into the School, the Date of Birth has been corrected as 17.05.1997 and that the same continued till the completion of her XII Std. The student could not, later, on the ground that the parents have given the wrong Date of Birth and that needs to be altered, and that for the fault of the parents, the child/student should not be affected, cannot be accepted. If such a contention is going to be accepted, and that the petitioner wants alteration of the Date of Birth as 17.07.1997, as stated supra, the entire qualification itself vanishes, as the student has no locus-standi to enter I Std. based on the Date of Birth as 17.07.1997.”



ii) *P. Jeyachandran vs. The Director of School Education Department, Chennai and others [W.P. (MD) No.15490 of 2020] decided on 06.11.2020;*

“6. The Date of birth entered in corporation record or municipality etc., may be correct. But the date of birth given to the school alone has to be taken into account for schooling, employment etc. If the alteration of date of birth is considered suitably based on the records found in Corporation/Municipality and later if it is found that upon consideration the person seeking such alteration was not eligible to be admitted in the School, entire qualification would become invalid and appointment secured on the basis of the said qualification would be non-est in the eye of law and he /she can be removed from service without giving any terminal benefits.”

8. In the present case on hand, the petitioner, having missed the bus cannot now seek for alteration of her date of birth, as she did not submit the representation well within time and was able to obtain a Court order with the correct date of birth only on 23.02.2022. The petitioner has neither sought alteration of date of birth within five years of entry into service nor before three years of her actual superannuation. Hence, the learned Single Judge rightly held that the application made at the fag end for correction of her date of birth cannot be entertained and dismissed the Writ Petition, which does not warrant any interference by this Court.



9. Accordingly, W.A.No.21/2024 fails and is dismissed on the ground of delay, besides lacking merit acceptance. No costs.

(W. Diengdoh)
Judge

(S. Vaidyanathan)
Chief Justice

Meghalaya
28.06.2024
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PRE-DELIVERY JUDGMENT
W.A.No.21 of 2024