

**THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO****WRIT PETITION No.3310 of 2018****ORDER:**

This writ petition is filed seeking the following relief :-

*"..... to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents herein in considering petitioner's various representations dated 18.02.1999, 16.07.1999, 10.05.2000, 09.06.2015, 08.07.2016, 30.08.2016, 26.09.2016, 26.12.2016 for change of petitioner's date of birth from 15.08.1957 to 15.08.1959 in all the service records of the petitioner herein inspite of the specific recommendation of the Chief Manager-HR, HPCL made vide his letter dated 12.09.2016 and also the instructions of ED-Information Systems dated 15.09.2016 and passing appropriate orders changing the petitioner's date of birth from 15.08.1957 to his original date of birth i.e., 15.08.1959 in the official service records of the petitioner herein as highly illegal, arbitrary, malafide, unconstitutional and consequently direct the respondents herein to forthwith pass appropriate orders".*

2. Heard learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondent-Corporation.

3. Brief facts of the case are as follows :-

(a) The petitioner was initially appointed as a Tank Truck Driver on a temporary basis at Warangal vide proceedings dated 17.01.1980 issued by the respondent

Corporation, and thereafter, his services were regularized as a Heavy Vehicle Driver vide proceedings dated 16.09.1980. Thereafter, he was promoted to various higher posts. While so during the year 1998, he came across the list of employees, wherein his date of birth was mentioned as 15.08.1957 instead of mentioning as 15.08.1959. The petitioner, in his application for employment, inadvertently mentioned his date of birth as 15.08.1957. The petitioner made several representations to the respondent Corporation requesting to change his date of birth as 15.08.1959 instead of 15.08.1957 by duly enclosing his S.S.C. Certificate, wherein his date of birth was mentioned as 15.08.1959.

(b) Pursuant to the said representations, the Senior Regional Manager, Cherlapally, vide letter dated 27.04.2000, informed the petitioner that since he did not submit any representation before the respondent-Corporation within a period of five years from the date of his joining, the request of the petitioner for change of his date of birth cannot be considered. The petitioner contends that the said letter is not valid in the eye of law as it was not issued by the competent authority.

(c) Thereafter, the Chief Manager (P & A), office of the General Manager, South Zone, Chennai, vide letter dated 09.08.2000 asked the petitioner to submit the required documents i.e., School leaving Certificate, Transfer Certificate etc., for taking further action. Further, the Chief Manager, Hindustan Petroleum Corporation Limited, vide letter dated 12.09.2016, recommended that it is a fit case to be reviewed based on the actual record produced by the petitioner at the time of his employment and to consider his case for change of date of birth by duly verifying the documents submitted by the petitioner. Further, the E.D. Information Systems also addressed a letter dated 15.09.2016 to the E.D-HRD (RM) PH-7 requesting to consider the petitioner's case after verifying the relevant documents and records available with the respondent-Corporation. Though the petitioner made several representations to the respondent authorities, so far, no action has been taken on the said representations.

4. Therefore, learned counsel appearing for the petitioner submits that appropriate orders be passed in the writ petition by directing the respondents to consider the representations submitted by the petitioner for change of his date of birth as

15.08.1959 instead of 15.08.1957 and pass appropriate orders in accordance with law.

5. Learned Standing Counsel appearing for the respondents submits that the respondents have filed a counter affidavit stating that as per the records of HPCL, the petitioner joined the services of the respondent Corporation on 01.02.1980 in the workman category. Since then, the petitioner has received four promotions and retired from service on 31.08.2017. In the application dated 26.10.1979 seeking employment, the date of birth of the petitioner, both in words and in numbers, was mentioned as 15.08.1957 and the age was mentioned as 22 years. The petitioner made several representations to the respondent-Corporation for a change of his date of birth as 15.08.1959 instead of 15.08.1957 in the service records of the respondent Corporation.

6. Learned Standing Counsel appearing for the respondents further submits that vide letter dated 09.08.2000, the petitioner's statement that the dates of birth of his brothers and sisters were not registered was not accepted by the respondents. In the application for employment, the petitioner declared that he had worked as a Tank Truck Driver at Audi

Venkateshwara and Company, Warangal, for a period from 10.05.1976 to 20.05.1977. If the employee's date of birth is presumed as 15.08.1959, then he qualifies for getting the driving licence only on 15.08.1977. Vide letter dated 08.07.2016, referring to his letter dated 09.06.2015, the Petitioner reiterated his grievance with respect to the rectification of the wrong entry of his date of birth year in the service records and referred to the copies of his SSC certificate and Passport No. 862105 in support of his case. However, the Petitioner failed to produce the originals of the said documents.

7. Learned Standing Counsel for the respondents further contends that the respondents have denied the contention of the petitioner that in his application for employment, he had mentioned his date of birth as 15.08.1957, which is an error that occurred without his knowledge.

8. Learned Standing Counsel for the respondents further contends that the so-called letters dated 12.09.2016 and 15.09.2016 were merely recommended for review of the case of the petitioner in the light of the relevant documents available with the Corporation and as per the policy of the Corporation.

The facts and grounds urged by the petitioner in the present writ petition are highly distorted, unreliable, incorrect and unsustainable and are based on mere conjectures and surmises. Therefore, the petitioner is not entitled to any relief, and the writ petition is devoid of any merits and the same is liable to be dismissed.

9. In support of his contention, the learned Standing Counsel for the respondents relied upon the judgment of the Hon'ble Apex Court in **KARNATAKA RURAL INFRASTRUCTURE DEVELOPMENT LIMITED Vs. T.P.NATARAJA AND OTHERS<sup>1</sup>**, wherein the Hon'ble Apex Court held that application for change of date of birth can (i) only be as per relevant provisions/regulations applicable; (ii) even when cogent evidence exists, it cannot be claimed as a matter of right; and (iii) same can be rejected on ground of delay/laches, especially when made at fag-end of service and/or when employee is about to retire on attaining the age of superannuation

10. This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that challenging the letter dated

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<sup>1</sup> (2021) 12 Supreme Court Cases 27

27.04.2000 itself, the petitioner ought to have approached this Court within a reasonable period of time. But, he did not do so and kept silent till 2018, which itself is a sufficient ground for dismissing the present writ petition on the ground of delay and laches, as stated in the above said judgment of the Hon'ble Apex Court in **KARNATAKA RURAL INFRASTRUCTURE DEVELOPMENT'S** (supra).

11. Further, from a perusal of the application of the petitioner seeking employment, it is evident that the petitioner himself with his own handwriting in words and figures mentioned his date of birth as 15.08.1957. Once the petitioner himself mentioned his date of birth in words and figures by his own handwriting as 15.08.1957, this Court cannot accept the contention of the petitioner that the same had occurred by mistake. Firstly, the petitioner has not challenged the letter dated 27.04.2000 addressed by the Senior Regional Managar, Cherlapally and secondly, the present writ petition is filed in the year 2018, after having kept silent for 18 years. Moreover, in the employment application, the petitioner had mentioned his date of birth as 15.08.1957 in his own handwriting in words and figures and the SSC Certificate was not attached to the application.

12. As such, this Court is of the considered view that the respondent authorities are justified in not considering the case of the petitioner for changing his date of birth, more so, when such a representation was made before the respondents after a long delay of 19 years from the date of his appointment. Therefore, the petitioner is not entitled for the relief sought for in the present writ petition. Hence, the writ petition is devoid of merits and the same is liable to be dismissed.

13. Accordingly, the writ petition is dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

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**NAMAVARAPU RAJESHWAR RAO, J**

Date: 02.02.2024

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