

IN THE COURT OF CIVIL JUDGE (JD) IST COURT,C U T T A C K

Present:- Sri Bhanupratap Mishra, LL.M.
Civil Judge (Junior Division), First Court,
Cuttack.

JO CODE: OD-0817

C.S NO. 895 of 2017

Pratima Swain aged about 59 years,
W/o. Himansu Sekhar Mohanty, Resident of Peyton Sahi,
P.S.Purighat, Town/Munsif/Dist. Cuttack.

.. Plaintiffs...

-Vrs-

1. State of Odisha, represented through its
Commissioner-cum- Secretary, School & Mass
Education Department, At-Secretariate Building,
Sachivalaya Marg, P.O./Town/Munsif-Bhubaneswar,
P.S. New Capital, Dist. Khurda.
2. The Director, Secondary Education,
At-Heads of Dept. Building,
P.O./Town/Munsif-Bhubaneswar, P.S. New Capital,
Dist. Khurda;
3. The District Education Officer, Cuttack,
At- Kacheri Road, P.O.Chandinichowk,
P.S.Lalbag, Town/Munsif/Dist.Cuttack.

4. The secretary Board of Secondary Education,
Orissa, Cuttack, At- Bajrakabati Road, Cuttack-3

.. Defendants..

Counsel for the plaintiff: - Sri H.S Mohanty & associates, advocate

Counsel for the defendants no. 1 to 3 :- AGP

Counsel for the defendants no. 4 :- Sri S. Ch. Panda & associates, Advocate

Date of Argument : - 20/03/2026

Date of Judgment : - 30/03/2026

J U D G M E N T

1. The plaintiff has filed the present suit with a prayer for directing the defendants to correct the date of birth in her service book as 24th November, 1957 instead of 12th May 1956. She also prays to full salary and benefits in service till 30th November, 2017 and also allow all service benefits as per 2016 pay revision along with the consequential reliefs .

2. Bereft of unnecessary details, the case of the plaintiff is that she was first admitted to school on 18.07.1963 in the Primary School known as Gunadola U.P. School, Chauliaganja, Cuttack, which was subsequently renamed as Chauliaganj Nodal U.P. School, Cuttack. At the time of such admission, the plaintiff was directly admitted to Class I, and her father, being her natural guardian, was present and affixed his signature in the School

Admission Register. As per the said Admission Register, the plaintiff's date of birth was recorded as 24.11.1957, on the basis of a birth certificate/birth proof produced at the time of admission. The said entry constitutes the earliest and primary record of her date of birth. Thereafter, the plaintiff pursued her studies at OMP M.E. School. However, the admission register pertaining to the relevant year of the said school is not available. Subsequently, the plaintiff was admitted to Class VIII in the year 1969 at Ranihat High School, Cuttack, on the strength of a Class VII Pass Certificate issued by OMP M.E. School, and she successfully passed the H.S.C. Examination in the year 1973. It is further stated that, as per the Admission Register of Ranihat High School, the plaintiff's date of birth was erroneously recorded as 12.05.1956. The plaintiff submits that she is unaware as to whether such wrong entry originated in OMP M.E. School or in Ranihat High School. At the relevant time, the plaintiff was a minor and had no knowledge of such discrepancy, and therefore could not take any steps for correction. The plaintiff further states that, after completion of her education, she was appointed as an Assistant Teacher on 23.02.1984 in Private Aided Marwari High School, Cuttack. At the time of opening of her Service Book, she pointed out the error in her date of birth, however, the concerned authorities avoided taking corrective steps on the pretext that the matter would be considered later. The Service Book was neither duly notified nor shown to the plaintiff for a considerable period, and she was not supplied with the HRMS booklet. A duplicate Service Book was

furnished to her only at the fag end of her service. The plaintiff alleges that the authorities deliberately withheld the incorrect entry of her date of birth from her knowledge. It is further submitted that the defendants, relying upon the erroneous date of birth recorded in the Service Book, superannuated the plaintiff from service on 31.05.2014, without serving the mandatory statutory notice of 30 days prior to retirement. The plaintiff states that the original birth certificate produced by her father at the time of first admission is no longer available either with her or in the school records. However, the date of birth recorded at the time of first admission, i.e., 24.11.1957, based on the said birth certificate, constitutes conclusive proof of her correct date of birth. Any subsequent wrong entry made by any authority cannot be binding upon the plaintiff. The plaintiff's date of birth ought to be treated as 24.11.1957, irrespective of any incorrect entries in subsequent school records or in the Service Book. The plaintiff further submits that, prior to her superannuation, she had instituted Civil Suit No. 6827 of 2014 and filed an interim application seeking stay of her retirement. This Hon'ble Court was pleased to observe that the rights of the plaintiff would be protected in the suit and declined to grant interim stay. Consequently, the plaintiff was superannuated on 31.05.2014 on the basis of the incorrect date of birth, at the age of 58 years. It is further submitted that, in June 2014, shortly after the plaintiff's retirement, the Government enhanced the age of superannuation of teachers/employees from 58 years to 60 years. Had the correct date of birth of the plaintiff been considered, she would have continued

in service and retired on 30.11.2017. Initially, in Civil Suit No. 6827 of 2014, the plaintiff had sought continuation in service till 30.11.2015. Subsequently, after issuance of the Government Notification enhancing the retirement age, the plaintiff filed an amendment petition seeking correction of the said date to 30.11.2017 in the cause title and prayer. However, the said amendment petition was opposed by the opposite parties on the ground that it would alter the nature and character of the suit, and this Hon'ble Court was pleased to reject the same. The School Managing Committee remained under suspension since 1967 due to internal disturbances, and the Inspector of Schools, Cuttack I, functioned as Special Officer in charge. The school became a center of activities relating to OSTA and anti-OSTA groups, and teachers not aligned with the dominant group were subjected to harassment and discrimination. Although a Managing Committee was constituted in the late 1980s, it could not function effectively, and the school continued as a private institution until 1994. The plaintiff was approved as a trained teacher with effect from 23.02.1984, i.e., the date of her joining, but she was not paid salary in the trained graduate scale until the year 2008. The arrear salary remains unpaid and is still pending with the concerned authorities. The revised salary was granted only in 2008. The plaintiff submits that she has repeatedly raised her grievances before the competent authorities; however, none of her representations have been duly considered. The defendants have neither disputed the date of birth recorded in the first School Admission Register nor controverted

the notice issued under Section 80 of the Code of Civil Procedure or the facts stated in the representations submitted by the plaintiff. Despite the same, no steps have been taken by the defendants to correct the date of birth in the Service Book or to release the arrear salary, resulting in the illegal and premature superannuation of the plaintiff. Hence, this suit.

3. On the other hand the defendants no. 1 to 3 have appeared and filed their written statement stating that the Defendant No. 3 is a party to the present suit and is also representing Defendant Nos. 1 and 2, being duly authorized to swear this written statement on their behalf. The Defendant No. 3 has carefully gone through the plaint and the averments made therein and has understood the contents thereof. The allegations made in the plaint are denied unless specifically admitted herein. The Plaintiff had earlier instituted a Civil Suit bearing C.S. No. 6827 of 2014, in which this Defendant had already filed a written statement. The present suit is not maintainable, and the written statement filed in the earlier suit may kindly be read as part and parcel of the present written statement. The present suit filed by the Plaintiff seeking a decree for mandatory injunction to declare the alleged incorrect date of superannuation as null and void, and for continuation in service till 30.11.2017 along with full salary and benefits, is wholly misconceived, untenable, and not maintainable in law. In the earlier suit, the Plaintiff had filed an amendment petition under Order VI Rule 17 of the Code of Civil Procedure.

The Defendant No. 3 had filed objections thereto, and the said amendment petition was rejected by the Hon'ble Court on the ground that the proposed amendment would change the nature and character of the suit, rendering it not maintainable. The date of birth of the Plaintiff as recorded in the Service Book is based on the H.S.C. Certificate issued by the Board of Secondary Education, Odisha, Cuttack, which was duly produced by the Plaintiff herself at the time of her entry into service. The Plaintiff had affixed her signature on the first page of the Service Book in token of acceptance and authentication of the entries made therein, including the date of birth. At no point of time during her service tenure did the Plaintiff raise any objection or dispute regarding the recorded date of birth, nor did she make any application for correction of the same before the competent authority. The question of correction of date of birth at this belated stage does not arise, particularly when the Plaintiff has accepted the same throughout her service period. As per Rule 65 of the Orissa General Financial Rules, Volume-I (OGFR), no application for change of date of birth in the Service Book shall be entertained after the expiry of five years from the date of entry into Government service. The said Rule further provides that the date of birth declared at the time of entry into service, supported by documentary evidence such as the Matriculation Certificate, shall be final and binding, and no alteration shall be permitted except in cases of clerical error, and that too within the stipulated period of five years. In the present case, the entry of date of birth in the

Service Book is neither a clerical error nor has any application for correction been made within the prescribed statutory period. Hence, the Plaintiff has no prima facie case. Pursuant to the notice of superannuation, the Plaintiff was duly superannuated from service on 31.05.2014 and was relieved from her duties on the said date. The present suit suffers from lack of jurisdiction and is not maintainable. The Plaintiff is not entitled to any of the reliefs claimed in the plaint. The Plaintiff, being a well-educated and literate person, remained silent for years and has approached this Hon'ble Court at a highly belated stage. The suit is therefore liable to be dismissed on the ground of delay and laches. The ratio laid down by the Hon'ble Supreme Court in ***Chennai Metropolitan Water Supply and Sewerage Board vs. T.T. Muralibabu***, reported in **(2014) 4 SCC 108**, is squarely applicable to the facts of the present case. The dispute raised by the Plaintiff pertains to service matters, particularly regarding correction of date of birth, which cannot be adjudicated in a civil suit. The appropriate remedy lies before the competent forum under Section 19 of the Administrative Tribunals Act, 1985. In ***State of Tamil Nadu vs. T.V. Venugopalan***, reported in **(1994) 6 SCC 302**, the Hon'ble Supreme Court has held that the date of birth recorded in school records forms the basis for service records, and if no objection is raised during service, subsequent claims for correction are untenable and cannot be entertained. In view of the aforesaid facts, legal provisions, and judicial pronouncements, the claim of the Plaintiff is devoid of merit and is liable to be rejected.

Defendant no. 4 has appeared and filed his written statement stating that the suit as framed and instituted is not maintainable in law as against this Defendant. The Plaintiff has no cause of action to institute the present suit against this Defendant. The suit is liable to be dismissed for non-joinder of necessary parties. The material facts of the case have not been properly stated in the plaint and the Plaintiff has suppressed the true facts. The suit is wholly misconceived, baseless, and untenable in law and is liable to be dismissed. The Plaintiff's date of birth as recorded in her H.S.C. Pass Certificate constitutes conclusive proof of her date of birth, and the said entry is correct. It is submitted that the retirement of the Plaintiff on 31.05.2014 is justified as per the date of birth recorded in her H.S.C. Pass Certificate. The date of birth of the Plaintiff has been correctly recorded in her H.S.C. Pass Certificate. It is submitted that the Plaintiff's date of birth, i.e., 12.05.1956, as recorded in her H.S.C. Pass Certificate, is based on authentic records. No illegality has been committed by this Defendant or the Board of Secondary Education, Odisha. Hence, the Plaintiff is not entitled to any direction for correction of her date of birth, and the reliefs claimed are not legally sustainable. This Defendant submits that the Board of Secondary Education, Odisha is governed by the Orissa Secondary Education Act, 1953 and the Regulations framed thereunder. As per Rule 39, Section VI of the Board's Regulations:

“The date of birth once entered in the Board’s records cannot be altered except in cases of clerical or printing error. Any application for correction must be made within three years from the date of passing the examination and must be routed through the Head of the Institution concerned.”

As per the records of the Board, the Plaintiff, namely Pratima Kumari Swain, daughter of Niranjan Swain, appeared in the Annual H.S.C. Examination, 1973 from Ranihat High School, Cuttack, bearing Roll No. M13306, and passed in Second Division securing 379 marks. Her H.S.C. Pass Certificate reflects her date of birth as 12.05.1956, in accordance with the school records. No application for correction of the date of birth was submitted through the Head of the Institution within the stipulated period of three years from the date of passing the examination. Hence, at this belated stage, any such correction is not legally permissible under Rule 39, Section VI of the Board’s Regulations. In view of the aforesaid Regulation, this Defendant and the Board of Secondary Education, Odisha have no authority to alter the date of birth recorded in the Board’s records or in the H.S.C. Pass Certificate. The Plaintiff was admitted to successive educational institutions on the basis of Transfer Certificates/School Leaving Certificates issued by previous schools, namely Gunadola U.P. School (now

Chauliaganj Nodal U.P. School), O.M.P. M.E. School, and Ranihat High School, Cuttack. The date of birth would have been consistently recorded in those documents. The Headmasters of the aforesaid institutions are necessary parties for proper adjudication of the dispute relating to the date of birth. However, the Plaintiff has failed to implead them as parties to the present suit. In the absence of such necessary parties, the suit is liable to be dismissed for non-joinder of necessary parties. In the facts and circumstances stated above, the reliefs claimed by the Plaintiff against this Defendant are liable to be rejected.

4. In view of the pleadings of the plaintiff, the following issues need to be answered for proper adjudication of the suit, which are:

I S S U E S

- (i) Whether the suit is maintainable?
- (ii) Whether the plaintiff has the cause of action to file the present suit ?
- (iii) Whether the plaintiff has proved that her actual date of birth is 24/11/1957?
- (iv) Whether the plaintiff is entitled to get the decree directing the defendants to correct the date of birth in her service book as 24th November 1957 instead of 12th May, 1956?

- (v) Whether the plaintiff is entitled to get continuation in service or Mandatory benefits till 30.11.2015? ?
- (vi) Whether the plaintiff is entitle to get any other reliefs?

5. To substantiate his claim the plaintiff has examined only one witness as P.W. 1 and filed certain documents i.e Retirement notice issued by District education Officer, Cuttack vide L. No. 6040 dtd. 25/08/2014 marked as Ext. 1, Original charge handing over list marked as Ext. 2, Certified copy of school admission register marked as Ext. 3, Certified copy of HSC certificate marked as Ext. 4, Certified copy of Promotion list (2 sheets) marked as Ext. 5, Certified copy of service book (3 sheets) marked as Ext. 6 and Photocopy of promotion list of Assistant teachers for the post of Headmaster marked as “X” respectively. On the other hand defendants have examined only one witness on their behalf and have filed certain documents on their behalf i.e Authorisation letter issued to the D.W. 1 marked as Ext. A, Signature of of D.W. 1 on Ext. A marked as Ext. A/1, Signature of Secretary In-charge of Board of Secondary Education, Orissa marked as Ext. A/2, Certified copy of relevant Extract of Tabulation register of High school certificate examination, March 1973 marked as Ext. B. .

ISSUES

Issue Nos. (III), (IV) & (V) :-

6. These issues being the crux of the suit is taken up together for better adjudication of the suit. Plaintiff filed the present suit for

mandatory injunction to correct the date of birth in service book and not to superannuate the plaintiff before dated 30.11.2015. During argument Ld. Counsel for the plaintiff stated that the plaintiff prosecuted her first school study in Gonadola U.P. School Chauliaganj, Cuttack on dated 18.07.1963, in class-II. The school was later on renamed as Chauliaganj U.P. School, Cuttack. At the time of her admission her father was present signed the relevant documents at the time of admission. As per the admission register the date of birth was mentioned as 24.11.1957. Thereafter the plaintiff prosecuted her High School study in the Ranihat High School, Ranihat, Cuttack and passed the H.S.C examination in the year 1973. In the matriculation certificate the date of birth was mentioned as 12.05.1956. As the plaintiff was minor she unable to agitate the grievance before the appropriate forum for correction of the date of birth. Plaintiff proved the H.S.C certificate under Ext.2. Thereafter on dated 23.02.1994 she joined as Asst. teacher. At the time of the opening of the Service book plaintiff intimated the matter to the concerned authority for correction of the date of birth. But the plaintiff here failed to produce any document regarding the raising of any grievance before the concerned authority plaintiff only proved the authenticated copies of the service book under Ext.3 series. As per the date of birth mentioned in the H.S.C certificate and in the Service book authorities served the notice to her for her superannuation on dated 31.05.2014. Thereafter the plaintiff served the notice to the concerned authority for correction of the date of birth in the service book but the concerned authorities

did not respond to the said representation. She proved the retirement notice under Ext.4 but failed to prove the representation made before the concerned authorities for correction of the date of birth in the service book. Plaintiff herself proved the copy of the admission register under Ext.1 where the date of birth mentioned as public Inform officer O/o. D.I.O of Schools, Cuttack. The plaintiff was a Government Teacher under the School and Mass Education Department and retired on 31.05.2014 on the basis of the date of birth recorded in the service book as 12.05.1956, which is the date reflected in her original matriculation certificate. The plaintiff's claim here is that her date of birth is 24.11.1957 and that the entry of 12.05.1956 is erroneous. In support of her claim she relies on the authenticated copy of the admission register of Chauliaganj Nodal U.P School showing her date of birth as 24.11.1957. She asserts that the defendants are bound to act upon the school admission register rather than the Matriculation certificate.

The plaintiff examined herself as P.w 1 and proved the certified/authenticated copy of the U.P. School admission register, certified copy of the service book, original matriculation certificate, letter of the District Education Officer regarding her retirement from the service and other documents. In cross-examination P.W. 1 admitted that she had filed an application before the competent authority after passing the matriculation for correction of the date of birth in the certificate. But no material was produced to support this assertion. She further admitted that she did not file any application within time before the competent authority for correction of the

date of birth in the service book. She also not produced any document showing her application before the competent authority within the stipulated time for correction of the date of birth in the service book. In their response to the plaintiff, defendants during argument stated that plaintiff being an educated and responsible teacher entered service with full knowledge of the date of birth recorded in the service book as 12.05.1956 and put her signature acknowledging the same without objection. Having accepted the date of birth in the matriculation certificate, service book and higher qualification certificates, she is estopped from disputing the same at a highly belated stage after lapse of more than three decades of service. Further the correction of date of birth, after commencement of the service is governed by statutory roles and unless sought within the reasonable time, the same cannot be corrected. Reliance was placed on the letter of the Government dated 27.06.2014 and the decision of the **Hon'ble Supreme Court** passed in **District Collector, Nagercoil & ors Vrs. R. Venugopalam (1994) 6 SC 302**, wherein it was held that *“entries made at the time of school education and carried into service cannot be altered at the flag end of service except in accordance with the statutory provision”*.

The plaintiff relies upon the U.P. School admission register to show the date of birth as 24.11.1957. However, the matriculation certificate which was subsequently issued show her date of birth as 12.05.1956. The **Hon'ble Supreme Court** also held in **R. Venugopalan (1994) SC-6-SCC 302** held that *“the date of birth*

recorded in matriculation certificate is more reliable material than school admission register.” This Court finds that the plaintiff failed to produce any evidence to show that the entry in the matriculation certificate was erroneous or that she had perused any remedy within the reasonable time for correction. Her admission in cross-examination further weakened her stand. Hence here the plaintiff failed to prove that her correct date of birth is 24.11.1957. The correction of the date of birth at a belated stage has been consistently discouraged by the **Hon’ble Supreme Court in Union of India V Harnam Singh (1993) 2 SCC 162**, it was held that “*No Government servant can claim correction of the date of birth as a matter of right after long lapse of time and especially at the verge of retirement.*”

In **State of M.P Vs. Premlal Shrivastava, (2011) 9 SCC 664**, the Hon’ble Court held that “*Application for change of date of birth made at the end of service are liable to be rejected on the ground of delay and laches.*”

Further in **Home Dept., Govt of T.N Vs. r. Virubakaran(1994) 4 SCC 551** the Hon’ble Court held that “*Permitting such claims would result in administrative inconvenience and prejudice third parties.*”

In the present case, the plaintiff serviced for more than thirty years, without raising any objection. Being a teacher herself,

she was aware of the entries in the service book and has signed at various stages acknowledging the same. She did not pursue statutory remedies for correction. The plea to correct the date of birth at the gag end of the service is therefore en-justified. Hence, plaintiff is not entitled to correct the date of birth. Since the plaintiff is not entitled to correct the date of birth, her claim for continuation service till 30.11.2015 or for salary for the said period automatically fails. The **Hon'ble Supreme Court in Burn Standard CO Ltd. Vrs. Dinabandhu Majumdar, (1995) 4 SCC 172** held that no monetary benefit can flow from an impermissible correction of date of birth.

Accordingly all the issues are answered negatively against the plaintiff.

Issues No. (I), (II) & (VI)

7. In view of the findings made in the earlier discussions, it is very much clear that the present suit is not maintainable in the eye of law. The plaintiff has the cause of action to bring this suit against the defendants. It is also observed that plaintiff is not entitled to get any other relief.

Hence, these issues are answered accordingly.

ORDER

The suit, be and the same is **dismissed** on contest against the defendants without cost.

The pleaders fees at contested scale.

Dictated & corrected by me

**Civil Judge (Jr.Divn.) 1st Court,
Cuttack**

Judgment is pronounced today this the 30th day of March, 2026 in the open court under my signature and seal of this court.

**Civil Judge (Jr.Divn.) 1st Court,
Cuttack**

List of witness by the plaintiff:-

P.W. 1- Smt. Prartima Swain

List of witness by the defendant :-

D.W. 1 Kalpana Hansdah

List of exhibits by the plaintiff:-

- Ext. 1 Retirement notice issued by District education Officer, Cuttack vide L. No. 6040 dtd. 25/08/2014
- Ext. 2 Original charge handing over list
- Ext. 3 Certified copy of school admission register
- Ext. 4 Certified copy of HSC certificate

- Ext. 5 Certified copy of Promotion list (2 sheets)
Ext. 6 Certified copy of service book (3 sheets)
“X” Photocopy of promotion list of Assistant teachers
 for the post of Headmaster

List of exhibits by the defendant :-

- Ext. A Authorization letter issued to the D.W. 1
Ext. A/1 Signature of of D.W. 1 on Ext. A
Ext. A/2 Signature of Secretary In-charge of
 Board of Secondary Education, Orissa
Ext. B Certified copy of relevant Extract of Tabulation
 register of High school certificate examination,
 March 1973

Civil Judge (Jr.Divn.) 1st Court, Cuttack

