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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.183 of 2024

In the matter of an appeal under Section-10 of the Letters Patent of Patna High Court read with Article-4 the Orissa High Court Rules, 1948 from judgment dated 18.10.2023 passed by the Single Judge in W.P.(C) No.23169 of 2023.

1. State of Odisha, represented through Secretary to Government (Now Commissioner-cum-Secretary), School & Mass Education Department.

2. Director of Elementary Education of Odisha.

3. District Education Officer (DEO), Bhadrak.

4. Block Education Officer (BEO), Bhandaripokhari.

....

Appellants

-versus-

1. Meena Kumari @ Meena Kumari Rout

....

Respondent

Advocates who appeared in this case

For Appellants - Mr.S.K. Jee, AGA

*For Respondent - M/s.Kunal Ku. Swain,
K. Swain, J.R. Khuntia,
Advocate.*

CORAM :

MR. JUSTICE KRISHNA SHRIPAD DIXIT

MR. JUSTICE CHITTARANJAN DASH



Date of Hearing & Judgment : 23.02.2026

PER KRISHNA S DIXIT, J.

This Appeal by the State & its officials seeks to call in question a learned Single Judge's order dated 18.10.2023 whereby Respondent's W.P.(C) No.23169 of 2023 having been favoured, the order dated 27.12.2022 made by Appellants herein superannuating her on 10.10.2023 has been quashed. A direction has also been issued to the Appellants herein to continue her in service till she attains retirement age on the basis of her date of birth as entered in the Matriculation Certificate, i.e, '10.10.1965'. In other words, the other date, namely, '10.10.1963' allegedly entered in the Service Register wrongly is to be ignored.

2. Learned AGA Mr.Jee representing the Appellants vehemently argues that the date '10.10.1963' was entered in the Service Register on the instruction given by the Respondent-employee herself; the said entry continued throughout; her request for alteration of the date of birth in the Service Register having been made belatedly was rightly rejected in terms of the extant Rules; that being the position,



learned Single Judge grossly erred in granting relief to the Respondent.

3. Learned counsel appearing for the Respondent makes submission with equal vehemence in justification of the reasoning of learned Single Judge. He contends that the five year period of limitation for seeking alteration in the entry of date of birth in the Service Register has to be reckoned not from the date of entry into service, but from the date the services of his client came to be regularized; if that is done, the application is in time. He also relies upon a Ruling of the Apex Court that the date of birth as mentioned in the Matriculation Certificate should be as genuine for all practical purposes.

4. Having heard learned counsel for the parties and having perused the Appeal papers, we are inclined to grant indulgence in the matter for the following reasons:

4.1. Respondent gained entry to the service on 15.07.2003 although not on regular basis. At the time of entry, she had admittedly furnished '10.10.1963' as her date of birth and accordingly, entry was made in the Service Register, that existed throughout. When the superannuation order dated



10.10.2023 was served on her, she had represented seeking change of entry of date of birth to 10.10.1965 on the basis of her Matriculation Certificate. That request was not met with positive response on the ground that it was time barred in terms of Rule 65(a) of Code.

4.2. The entry point of service whether regular, irregular or otherwise is the focal point of Rule 65 of Odisha Civil Services, Code. The said rule reads as under:

“Every person on entering Government service shall declare his/her date of birth which shall not differ from any such declaration expressed or implied for any public purpose before entering service. The date of birth shall be supported by documentary evidence such as Matriculation Certificate, Municipal Birth Certificate and entered in his/her service record. No alteration of the date of birth of Government servant shall be made except in case of clerical error without prior approval of the State Government. An application for effecting a change in the date of birth shall be summarily rejected if:

- (a) Filled after five years of entry into Government service, or*
- (b) The change would so lower the applicants age that he/ she would have been ineligible to appear in any of the academic or recruitment examinations in which he/she had appeared or for consideration for appointment to any service or post under the Government.”*

The Rule employs the expression “entering the Government service” and does not say “entering the Government service on regular basis”. It is the employee, regardless of his/her status who would declare what his/her date of birth is, even in the engagement which may not be on regular basis. If that



is wrongly declared, then rectification is permissible if request is made within five years. Once that period expires, right or wrong of the entry makes no difference, law being what it is.

4.3. Salmond, on Jurisprudence (12th edition) says that the law of limitation is a statute of repose and peace. The State enacts the law relating to limitation as a matter of policy and therefore, Court cannot alter the same. To put it otherwise, limitation is a matter of legislative policy whereas laches is matter falling within the domain of Courts. The impugned order runs counter to this established principle and therefore, cannot be sustained. The Apex Court in *Popat and Kotecha Property Vs. State Bank of India Staff Association*, (2005) 7 SCC 510 has observed as under:

"The period of limitation is founded on public policy, its aim being to secure the quiet of the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. The statute i.e., the Limitation Act is founded on the most salutary principle of general and public policy and incorporates a principle of great benefit to the community. It has, with great propriety, been termed a statute of repose, peace and justice..."

The Apex Court in *Union of India v. Harnam Singh*, AIR 1993 SC 1367 has observed as under:



*“A Government servant, after entry into service, acquires the right to continue in service till the age of retirement, as fixed by the State in exercise of its powers regulating conditions of service, unless the services are dispensed with on other grounds contained in the relevant service rules after following the procedure prescribed therein. The date of birth entered in the service records of a civil servant is, thus of utmost importance for the reason that the right to continue in service stands decided by its entry in the service record. A Government servant who has declared his age at the initial stage of the employment, is of course, not precluded from making a request later on for correcting his age. It is open to a civil servant to claim correction of his date of birth, if he is in possession of irrefutable proof relating to his date of birth as different from the one earlier recorded and even if there is no period of limitation prescribed for seeking correction of date of birth, the Government servant must do so without any unreasonable delay. In the absence of any provision in the rules for correction of date of birth, the general principle of refusing relief on grounds of laches or stale claims, is generally applied to by the courts and tribunals. It is nonetheless competent for the Government to fix a time limit, in the service rules, after which no application for correction of date of birth of a Government servant can be entertained. A Government servant who makes an application for correction of date of birth beyond the time, so fixed, therefore, cannot claim, as a matter of right, the correction of his date of birth even if he has good evidence to establish that the recorded date of birth is clearly erroneous. The law of limitation may operate harshly but it has to be applied with all its rigour and the courts or tribunals cannot come to the aid of those who sleep over their rights and allowed the period of limitation to expire. Unless altered, his date of birth as recorded would determine his date of superannuation even if it amounts to abridging his right to continue in service on the basis of his actual age. Indeed, as held by this Court in *State of Assam v. Daksha Prasad Deka*, a public servant may dispute the date of birth as entered in the service record and apply for its correction but till the record is corrected he cannot claim to continue in service on the basis of the date of birth claimed by him.”*

4.4. The vehement submission of Mr. Swain that what is mentioned as the date of birth in the Matriculation Certificate should be taken as a correct entry, ordinarily



is true. In this connection, Rulings of the Apex Court and of several High Courts galore in the law reports. However, genuineness of entry in the school records is one thing and rectification of wrong entry in the Service Register is another. The question is not just right and wrong. It is the statutory period within which the aggrieved employee has to apply for rectification of the wrong entry in the Service Register. Entries in the Service Register are meant for being acted upon inter alia for the purpose of superannuation, regardless of they being right or wrong. This apart, at the fag end of service, an employee cannot seek rectification of date of birth only to ensure his continuance beyond the known date of superannuation, unless rectification is sought for in time. More is not necessary to specify.

4.5. It is pertinent to reproduce what has been observed by the Apex Court in *Bharat Coking Coal Ltd. v. Shyam Kishore Singh*, (2020) 3 SCC 411:

“9. ... the request for change of the date of birth in the service records at the fag end of service is not sustainable.



10. ... even if there is good evidence to establish that the recorded date of birth is erroneous, the correction cannot be claimed as a matter of right."

In the above circumstances, this Appeal succeeds. Impugned order of the learned Single Judge is set at naught. Respondent's W.P.(C) No.23169 of 2023 stands dismissed, costs made easy.

Web copy of this order to be acted upon by all concerned.

(Krishna Shripad Dixit)
Judge

(Chittaranjan Dash)
Judge

Orissa High Court, Cuttack
The 23rd Day of February 2026/Bijay/Sarbani