

(2021) 02 MAN CK 0010
In the Manipur High Court
Case No : Writ Petition (c) No. 35 Of 2021

Athokpam Shanti Devi

APPELLANT

Vs

Regional Institute Of Medical Sciences

RESPONDENT

Date of Decision : 19-02-2021

Acts Referred:

Citation : (2021) 02 MAN CK 0010

Hon'ble Judges : Mv Muralidaran, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

Â [1] MR. M. Devananda, learned counsel, accepts notice on behalf of the respondents Nos. 1 and 2.

[2] With the consent of both sides, the writ petition is taken up for disposal at the admission stage itself.

[3] The prayer of the petitioner is to direct the respondent 1 and 2 to allow the petitioner is to retire on 28.2.2022 i.e., the day of attaining the actual

age of superannuation on the basis of the real date of birth entered in the matriculation certificate issued by the Board of Secondary Education,

Manipur, by altering the date of birth of the petitioner in the service record as 1.3.1962 in the place of 1.3.1961.

[4] The learned counsel for the petitioner submitted that the actual date of birth of the petitioner, as recorded in her School Leaving Certificate, is

1.3.1962 and that after the demise of her father while in service, she was appointed as Lower Division Clerk in Regional Institute of Medical Sciences

Manipur, Imphal (in short, â??RIMSâ?) in the year 1972. He would submit that at the time of compassionate appointment, she had handed over her

School Leaving Certificate before the employer, however, by mistake, her date of birth was entered as 01.3.1961 in her service record. The learned

counsel further submitted that the petitioner had been gradually promoted to the post of Upper Division Clerk, then as Assistant Section Officer and

then as Section Officer and now she is holding the post of Administrative Officer, RIMS.

[5] The learned counsel then submitted that the petitioner had not been shown her service book even once during her entire service, but she came to

realize the anomalies inadvertently crept into by the respondent authorities qua her date of birth on the issuance of tentative seniority list of Assistant

Section Officer, wherein her date of birth has been entered as 01.03.1961 instead of 01.3.1962 through bonafide mistake. As there was no anomalies

in the seniority position of the incumbents shown in the tentative seniority list dated 18.03.2013, no written objection was lodged, but acting in good

faith, the petitioner had approached the respondent authorities and explained them the genuine bonafide mistake crept into her date of birth as

01.03.1961 in the place of 01.3.1962. The respondent authorities have also assured that needful would be done.

[6] The Learned counsel next submitted that since the respondent authorities have not rectified the bonafide mistake, on 31.8.2020, the petitioner had

submitted a representation to the Deputy Director (Admin.), RIMS, requesting for correction of her date of birth as 1.3.1962. Pursuant to the said

representation of the petitioner, the Section Officer (Admin.), RIMS, wrote a letter to the Secretary, Board of Secondary Education, Manipur on

12.10.2020 for confirmation of the certificate and by the communication dated 16.10.2020, the Controller of Examination, Board of Secondary

Education, Manipur communicated that the case of the petitioner is a genuine one. As such the petitioner was under bonafide presumption that the

respondent authorities have corrected her actual date of birth in the service records based on her School Leaving Certificate. But the respondents

have not done so far.

[7] Thus, the contention of the petitioner is that a genuine mistake has occurred while entering the actual date of birth of the petitioner in the service

book while entering the service initially and that the representation of the petitioner dated 31.08.2020 has not been fully acted upon and that there is no

indication of considering the rectification of the date of birth entered through a genuine bonafide mistake. Accordingly, the petitioner submitted that to the utter disbelief and dismay, on being acknowledged about her date of superannuation is on 28.2.2021, the petitioner realized that she is being retired on the basis of her date of birth which had been recorded in the service book under a genuine bonafide mistake as on 01.3.1961, as against the actual date of birth as reflected in the matriculation certificate i.e. 1.3.1962 and that in the event, the petitioner is to retire on 28.2.2022 on attaining the actual age of superannuation.

[8] Heard the learned counsel for the respondents on the submissions made by the learned counsel for the petitioner. Mr. Devananda, the learned counsel who takes notice on behalf of the respondent agreed that if this Court directed the respondents to consider and pass orders on the petitioner's representation dated 31.08.2020, the respondents are ready to dispose the same according to rule.

[9] This Court considered the submissions raised by the learned counsel appearing on either side and also perused the materials available on record.

[10] Considering the submissions advanced on the side of both sided and the averments made in the affidavit filed in support of the petition as well as the annexure thereto and also without going into the merits and demerits of the petitioner's case, the writ petition is disposed of directing the respondents to consider the representation of the petitioner dated 31.8.2020 and pass a speaking order by affording sufficient opportunity to the petitioner, within a period of two weeks from the date of receipt of a copy of this order. No costs.

[11] Registry is directed to issue copy of this order to all the parties through whatsapp/e-mail.