

(2017) 11 KL CK 0016
In the High Court Of Kerala
Case No : 34501 of 2017 (K)

MANJULAL

APPELLANT

Vs

UNION OF INDIA

RESPONDENT

Date of Decision : 29-11-2017

Acts Referred:

Citation : (2017) 11 KL CK 0016

Hon'ble Judges : K.Vinod Chandran

Bench : SINGLE BENCH

Advocate : SAIJO HASSAN, BENOJ C AUGUSTIN, RAFEEL. V.K., VISHNU BHUVANENDRAN, U.M.HASSAN, P.PARVATHY, S.LEKHA

Final Decision : Dismissed

Judgement

1. The petitioner is concerned with the correction of date of birth in the Passport, applied for as per Exhibit P3.
2. The petitioner's date of birth is shown in the Passport as 25.05.1962. The petitioner submits that in fact his date of birth is 25.05.1968, as evidenced by Exhibit P2 certificate issued by the Board of Government Examinations. The petitioner also submits that the birth certificate also shows the date as 25.05.1968; however, it is not produced before this Court.
3. The issue is covered by the judgment of this Court, reported in Jayakumar v. Regional Passport Officer [2015 (3) KLT 158], against the petitioner.
4. The learned Counsel for the petitioner relies on the

decision of a Division Bench of this Court in Union of India v. Sunil Kumar [2015 (3) KLT 501]. The writ petition from which the appeal arose was filed against a restriction in the earlier Circular No.VI/401/2/5/2001 dated 29.10.2007, wherein the Passport Officer was conferred with the authority to reject summarily any application made for correction of date of birth beyond two years. The learned Single Judge declared the restrictive clause to be void and inoperative. In the appeal, the Division Bench reversed the judgment and left remedy of the writ petitioners to approach the Civil Court as provided in the Circular existing as on that date.

5. Subsequently the said Circular has been withdrawn and a new Office Memorandum [O.M.No.VI/401/2/5/2001 dated 26.11.2015] issued based on the judgment in Jayakumar. In the said Office Memorandum there is no restriction with reference to the difference in the date of birth; but, however, there is a restriction in approaching the Passport Officer beyond five years of the issuance of the Passport, for correction of date of birth. This was also in compliance with the findings of this Court in Jayakumar, wherein it was held that even if the difference sought to be corrected was of 20 years if a person approaches immediately after the issuance of the Passport, the correction shall be allowed taking it as a bona fide mistake. It is also submitted by the Central Government Counsel that as of now there is no provision in the Office Memorandum for a correction based on a Civil Court's order.

In the above circumstances, the writ petition fails and it stands dismissed. No costs.