ORDER SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD
JUDICIAL DEPARTMENT

WP 545 of 2020

Muhammad Khalid

Versus

Director General DGSES & Others

For Petitioner:	Mr. Arshad Zaman Kayani, Advocate:
For Respondents:	Syed Nazar Hussain Shah, AAG with Ms. Rubina Akhtar Director (H), DGSE:
Date of Hearing:	20th January, 2022:

ARBAB MUHAMAMD TAHIR, J: Through the instant writ petition, petitioner has prayed for a direction against the respondents to correct his date of birth in service record, according to his CNIC all adverse orders to this effect be recalled and he be allowed to continue service till his age of superannuation i.e. 30.04.2021.

2. Facts, relevant for the disposal of instant writ petition, are that the petitioner joined Special Education & Social Welfare Division ('respondent-department') as Driver on 25.08.1987. He claims that his actual date of birth is 01.05.1961 which had been wrongly mentioned as 25.07.1958 in his service record. In his first CNIC, the year 1958 was mentioned and for correction of the same, he moved the NADRA on the basis of School Certificate wherein his date of birth is mentioned as 01.05.1961, but his request was turned down. Thereafter he filed a civil suit wherein his claim was recognized vide Judgment & Decree dated 14.03.2006 and pursuant to said Judgment & Decree, new CNIC with correct date of birth was issued to him.

3. According to the petitioner, he moved the respondent-department several times in the year

2006, 2007 and 2009 for correction of his date of birth in service record but no heed was paid to his claim and finally vide Office Order dated 16.08.2018, his pre mature retirement had been notified to be effective from 25.07.2015 in accordance with his date of birth as per service record. Hence, instant writ petition.

4. Learned counsel for the petitioner argued that sufficient documentary evidence in support of actual date of birth of the petitioner in the shape of School Certificate, CNIC and the decree of learned Civil Court has been furnished to the respondent-department but despite that, his request was turned down arbitrarily by issuing his pre mature retirement order.

5. On the other hand, learned AAG controverted the stance of the petitioner by arguing that date of birth once recorded cannot be altered in service record; that petitioner already stood retired from the respondent-department and cannot ask for change of his date of birth at such a belated stage which is otherwise not permissible under the rules.

6. Heard, record perused.

7. In order to substantiate his claim, petitioner mainly relied upon CNIC, School Leaving Certificate and Judgment & Decree dated 14.03.2006, passed by learned Civil Judge VII, Abbotabad.

8. Although this Court while exercising constitutional jurisdiction is not supposed to indulge in factual controversy, yet in order to ascertain bonafide of the petitioner, documents have been examined. It reveals that initial CNIC of the petitioner had the year 1958 which was subsequently got changed as 01.05.1961 on the basis of Judgment & Decree. So the entry in CNIC is subservient to the said Decree which has been passed against the NADRA. It is noteworthy that in the said suit, the respondent-department was not

party, therefore, cannot be forced to accept the Decree, being out of the array of the defendants. Lastly, authenticity of School Leaving Certificate is also not out of question as it was issued in the year 2001 after about twenty-five years of leaving the School. The date of school leaving mentioned in the Certificate is 21.04.1974.

9. As mentioned above, no reliance can be placed upon the two documents i.e. CNIC and School Leaving Certificate while the Judgment & Decree can also not be pressed into service against the respondent-department as the latter was not party in the said suit.

10. Record also reveals that petitioner joined the service in the year 1987 but remained silent till the Decree in his favour in the year 2006.

11. Another important aspect of the matter is that at the time of entry into service, the respondent-department allowed the petitioner relaxation in upper age limit by four years as evident from letter dated 25.08.1987 written to the Accountant General, Pakistan Revenue Islamabad. It means that the very appointment of the petitioner had been made on the basis of first entry of date of birth. The petitioner has raised no objection regarding incorrect date of birth at that time.

12. The rule position on the subject is also specific. It is stipulated in Rule 12A of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 that the date of birth once recorded at the time of joining government service shall be final and thereafter no alteration in the date of birth of a civil servant shall be permissible.

13. The petitioner seeks alteration of his date of birth in service record after more than three decades. It is settled law that the date of birth once recorded in the service record of a civil servant cannot be altered or changed except in accordance

with exceptions provided in the rules itself. Guidance is solicited by the dictum laid down by the Hon'ble Supreme Court of Pakistan in case of *Chief Secretary, Government of Balochistan, Quetta and others v. Asmatullah Kakar* ***(2020 SCMR 1678)***.

14. Another important aspect of the matter is that the petitioner joined the service in 1987 while filed initial application in the year 2006 i.e. after more than 19 years. The Hon'ble Apex Court in C.P. No.4428 of 2019 titled *Muhammad KhaliqMandokhailv. Government of Balochistan* on the subject has observed that:-

> *As we have noticed that the whole proceedings were carried out after the lapse of 22 years of active service, therefore, it can be safely held that the proceedings carried out by the petitioner were based upon an afterthought just to prolong the service tenure and it was nothing but an attempt to continue with the service on the basis of frivolous and tainted documents which speak volume in relation to its genuineness."*

15. For reasons mentioned above, the petitioner has not been able to make out a case for exercise of jurisdiction in terms of Article 199 of the Constitution. Consequently, instant writ petition fails and accordingly **dismissed**.

(ARBAB MUHAMMAD TAHIR)
JUDGE

A.R.ANSARI*

Announced in Open Court, on this_____day of January, 2022:

JUDGE