

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

C.P No. D-552 of 2024

**PRESENT: Mr. Justice Muhammad Saleem Jessar
Mr. Justice Nisar Ahmed Bhanbhro**

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| Petitioner | : | Through M/s. Aqeel Ahmed Bhutto & Farooque Ali Bhutto, Advocates |
| Arbab Ali son of Hassan Khan | | |
| Respondents | : | Through Mr. Liaquat Ali Shar, Addl. Advocate General, Sindh assisted Mr. Aftab Ahmed Bhutto, Assistant A.G, Sindh along with Javed Ahmed, Assistant Director on behalf of Regional Director, Local Government Department, Larkana, Nadir Shah, Chief Officer, District Council Larkano & Rehmatullah Mangrio, Accounts Officer, District Council, Larkana |
| Date of hearing | : | 11.09.2025 |
| Date of Order | : | 17.09.2025 |

ORDER

Nisar Ahmed Bhanbhro J.- Through instant petition the petitioner has claimed following relief:-

- a. The Honorable Court may be pleased to declare the action of Respondent No.1, cancelling the correction of the petitioner’s date of birth and ordering his retirement based on the erroneous date of birth under impugned letter dated 09-07-2024 as well as letter dated 29-05-2024, whereby salaries of the petitioner were stopped, as illegal, arbitrary and without lawful authority and set aside the same.

- b. The Honorable Court may be pleased to set aside the impugned order dated 09-07-2024 issued by respondent No.1 Chief Officer District Council Larkana and direct the respondent No.1 & 2 to reinstate/restore the petitioner's corrected date of birth (**11-07-1967**) in his service record and allow him to continue his service until the actual date of superannuation i.e **10-07-2027**.
- c. The Honorable Court may be pleased to direct the respondents to release the salaries of the petitioner with effect from May 2024 onward and ensure smooth payment of salaries till his actual date of retirement.

2. Mr. Akeel Ahmed Bhutto Learned Counsel for the Petitioner argued that the petitioner was serving as Administrative Officer (BPS-16) in District Council Larkana, who was initially inducted in the department as Chowkidar (BPS-01) on 01.09.1982 when his date of birth was mistakenly recorded in the service book as 11-07-1963 instead of his actual date of birth as 11.07.1967. He argued that as per the manual National Identity Card of the petitioner issued to him long back in 1994 and 1996 as well as Computerized National Identity Card issued on 27-11-2016, the actual date of birth of the petitioner recorded therein is 11-07-1967. Besides in his Primary School Leaving Certificate as well as Secondary School Certificate (Matriculation), the actual date of birth of the petitioner is recorded as 11-07-1967. He argued that the petitioner during course of his service, discovered a clerical error in his service book concerning his date of birth, which was erroneously recorded as 11-07-1963 instead of 11.07.1967. He contended that upon realizing this discrepancy, the petitioner moved a representation seeking correction of his date of birth in the service book recorded on which the then Zilla Nazim Larkana and the then Administrative Officer of District Council Larkana on the basis of his educational testimonial/Paka Matriculation Certificate approved the rectification of the petitioner's date of birth from 11-07-1963 to 11.07.1967 and such correction was made in his service book accordingly. He contended that, the petitioner continued his service based on the corrected date of birth as approved by the competent authorities, which was never challenged before any higher authority nor cancelled despite passing of considerable time, as no any adverse remarks were given in ACRs against the petitioner. He argued that all of sudden the respondent No.1 stopped salaries of the petitioner since May 2024 vide letter dated 29-05-2024 and then issued a letter dated 03-06-2024 alleging change/tampering in the date of birth after passing of 26 years which was

replied by the Petitioner. He argued that the retirement of the Petitioner was conveyed vide letter dated 09.07.2024 issued by the respondent No.1, who was not a competent authority. He contended that the Zila Nazim was empowered to make correction in the date of birth of the Petitioner under article 140 – A of the Constitution, Islamic Republic of Pakistan, 1973 (the Constitution). He argued that the Petitioner was deprived of three years' service without any lawful authority. He prayed to set aside the impugned order dated 09.07.2024 conveying retirement of Petitioner from 10.07.2023.

3. Mr Liaqat Ali Shar, learned Additional Advocate General Sindh, contended that the Petitioner was taken into Government Service in the year in 1982. He argued that the Petitioner at the time of joining Government Service mentioned his date of birth as 11.07.1963. He argued that Petitioner himself altered the date of birth in the Service Book after the 25 years. He argued that the then Zila Nazim did not pass any order allowing change in Date of Birth of Petitioner. He argued that the provisions contained under the Sindh Civil Servants (Appointment, Promotions and Transfer) Rules 1974, were applicable to employees of Local Councils in terms of Rule 26 of the Sindh Local Councils Employees rules 2017, in all matters not provided for in the latter rules or any other rules and mutatis mutandis apply to the employees of Local Councils. He contended that the Petitioner's date of birth in service record was maintained as 11.07.1963 and he stood retired on 10.07.2023. He argued that per Rule 10 of the West Pakistan Local Councils and Municipal Committees Service Rules 1963, no person could be appointed to the service by initial recruitment who is less than 18 years or more than 25 years of age. He argued that if the date of birth of Petitioner is treated as 11.07.1967 at the time of his entry in service in year 1982 he was aged about 15 years which makes his very appointment invalid. He contended that the Petitioner cannot claim change in date of birth after the lapse of about 42 years of his entry into service. He prayed for dismissal of the petition.

4. Heard Arguments, perused material made available before us on the record.

5. Scanning of the record revealed that Petitioner, was appointed in service of Local Council Larkana in year 1982. Petitioner's date of birth at the time of his entry in service was recorded as 11.07.1963, which remained unchanged

until year 2007, when the then Zila Nazim made an endorsement in the service book that the date of birth of the Arbab Ali (Petitioner) as per matric certificate is 11.07.1967. Pursuant to such endorsement, Petitioner erased year 1963 which was year of his of birth and interpolated the same with year 1967. Zila Nazim's endorsement regarding the date of the birth of the Petitioner by no means operated as a correction in the record. It amounted to incorporation of information, as no order with regard to the alteration in the date of birth was tendered by the Zila Nazim.

6. Even otherwise, Zila Nazim under the provisions of Sindh Local Government Ordinance 2001 (SLGO) was not competent to decide the matters pertaining to the service of the employees of District Government, which fell exclusively under the domain of Executive Authority. For the ease of reference Section 17 of SLGO which empowered the Zila Nazim to perform the functions is reproduced below:

17. Functions and powers of the Zila Nazim

(1) The functions and powers of the Zila Nazim shall be

- (a) to- provide vision for the district-wide development, leadership and direction for efficient functioning of the District Government;
- (b) develop with the assistance of the District Administration strategies and timeframe for accomplishment of the relevant goals approved by the Zila Council;
- (c) perform functions relating to law and order in the district;
- (d) ensure implementation of the functions decentralized to the District Government;
- (e) oversee formulation and execution of the annual development plan, delivery of services and functioning of the District Government;
- (f) present proposal to the Zila Council for approval of budget for District Government, Zila Council and intra-district fiscal transfers;
- (g) maintain administrative and financial discipline in the District Government;
- (h) present tax proposals to the Zila Council;
- (i) present report on the performance of the District Government in person to the Zila Council at least twice a year;

- (j) preside over the meetings of the Zila Mushawarat Committee;
- (k) take charge, organize and prepare for relief activities in disasters or natural calamities;
- (l) authorize officers of the District Government to sign documents on its behalf;
- (m) initiate inspections of Taluka Municipal Administration, Town Municipal Administration and Union Administration in the district pursuant to section 135;
- (n) establish and supervise the working of the Internal Audit Office;
- (o) issue executive orders to the District Coordination Officer and Executive District Officers for discharge of the functions decentralized to the District Government;
- (p) to represent District Government on public and ceremonial occasions; and
- (q) perform any other function as may be assigned to him by the Government.

(2) The Zila Nazim shall not employ any advisor, special assistant or a political secretary other than support staff allocated to his office from amongst the officials available in the district:

7. Perusal of the above provisions of law made it crystal clear that the office of the Zila Nazim was not empowered to take any decision with regard to the service issues of the employees. As such the endorsement of Zila Nazim on the service book of the Petitioner was in itself without any lawful authority. The contention of the Learned Counsel for the Petitioner that the Zila Nazim was competent to make such orders under Article 140 - A of the Constitution, is also without any force. The constitutional command provided for establishment of a local Government system with financial and administrative independence to the elected representatives, which was conformed in terms of promulgation of SLGO, 2001 and on its repeal through enactment of Sindh Local Government Act 2013. The services of employees of the Councils were regulated under the provisions of West Pakistan Municipal and Local Council Service Rules 1963, whereby the executive authority was empowered to deal with the matters pertaining to the service of employees.

8. Law on the change of date of birth of a Government Servant is quite settled and clear. To focus on the issue of change of date of birth, Rule 12 - A

of "The Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974", is the relevant provision of law, which too applies to the employees of Local Councils in province of Sindh. Rule 12-A is reproduced as under:-

[12-A. The Date of Birth once recorded by a civil servant at the time of joining Government Service shall be final and no alteration thereafter shall be permissible.]

9. It is quite clear from the wording contained in the above Rule that there is no possibility or probability of alteration in date of birth once recorded at the time of joining service. The Petitioner has claimed that his date of birth was allegedly corrected or modified by the Zila Nazim Larkana. There is an option with the competent authority to make correction of clerical mistakes in the service book. Civil Service Regulation 171 being relevant is reproduced below:

Combined Set of Sindh C.S.R. Vols. I and II (Revised Edition 2014)

171. In the service book every step in a Government servant's official life including temporary and officiating promotions of all kinds, increments and transfer, and leave of absence taken, should be regularly and concurrently recorded, each entry being duly verified with reference to departmental orders, pay bills, and leave statements, and attested by the head of the office. If the Government servant is himself the head of an office, the attestation should be made by his immediate superior, Officiating and temporary service and leave taken prior to first substantive appointment to a permanent post should also be recorded in the service book and duly attested after verification. The Date of Birth should be verified with reference to documentary evidence and a certificate recorded to that effect stating the nature of the document relied on:

Provided that in the case of inferior Government servants, if documentary evidence is not available, the age should be determined by the appointing authority with reference to the statement of respectable persons, medical opinion, etc., and any other evidence he may think proper to take.

In the case of a Government servant, the year of whose birth is known but not the date, the 1st July should be treated as the date of birth. When both the year and the month of birth are known, but not the exact date, the 16th of the month should be treated as the date of birth.

In the case of a Government servant who is only able to state his approximate age, and who appears to the attesting authority to be of that age, the date of birth should be assumed to be the corresponding date after deducting the number of years representing his age from his

date of appointment. When the date, month, and year of birth of a Government servant, are not known, and he is unable to state his approximate age, or when the appointing authority does not accept the age stated by the Government servant, the age by appearance as stated in the medical certificate of fitness, in the form prescribed in Rule II should be taken as correct, he being assumed to have completed that age on the date the certificate is given, and his date of birth deduced accordingly.

When once an entry of age or date of birth has been made in a service book, no alteration of the entry should afterwards be allowed, unless it is known that the entry was due to want of care on the part of some person other than the individual in question or is an obvious clerical error. Officers of a rank not lower than the Principal District Officer in the Department concerned may correct errors in the service book which are obviously clerical. Cases in which the correctness of the original entry is questioned on other grounds should be referred to a competent authority.

Finger prints of the Government servants should be recorded in the column headed "Personal marks of identification" in the service book itself. The impressions should not be taken on separate slips of paper and pasted to the service book.

Exception.-When a military employee is transferred to a civil department and assumes a civilian status or when a military employee discharged from the army without earning a pension is employed in a post in a civil department in which his military service counts towards pension, the date of birth to be entered in his service book or roll shall be either that entered by the Military authorities in his form of attestation when he first joined the army or, if at the time of attestation he stated only his approximate age the date arrived at by deducting the number of years representing his age from his date of attestation.

Note.- Cases in which prior to 28th September, 1938 the date of birth has been deducted by any other method, from the age at appointment or attestation, or cases in which Government have passed specific orders accepting a particular date of birth, need not be re-opened.

Instruction.-Officers competent to alter dates of birth should see that no change in the date of birth which will be to the advantage of the Government servant concerned is allowed unless an application in that behalf is made by the Government servant concerned within two years of the date on which his service book was opened under Sindh Civil Services Rule 167. All cases in which applications are made after the period of two years referred to above should be submitted to Government for orders. The date of birth is to be verified with reference to documentary evidence and a certificate is to be recorded to that effect stating the nature of the document relied on as required under Rule 171. A change in the date of birth should not, therefore, be

allowed on the evidence which could be available to a Government servant when he entered Government service and his date of birth was recorded in the service book.

10. Nevertheless, the Rule 171 of Civil Service Regulation is applicable with certain exceptions and certain principles were to be followed. This rule only provides for a change in the record containing clerical errors, thus was in consonance with Rule 12 - A of the APT Rules 1974.

11. Per Rules 197 to 202 (Civil Service Regulations), it is the duty of every Government servant to ensure his Service Book is properly maintained as prescribed in Rule 199, and the Head of the Department is duty-bound to permit a Government servant to examine his Service Book at any time he wishes to do so. Under the Civil Service Regulations, the service record of the employees is scrutinized each year and inspecting officer puts his scrutiny note on the record, in presence of the employee. Petitioner remained in service for about 25 years until 2007, when endorsement as to his date of birth was made in the service book. It is surprisingly noticed that the other documents including the academic record and the CNIC, conjointly reflect that the date of birth of the petitioner was incorporated as 11.07.1967. The petitioner joined the service in year 1982, whereas he agitated his grievances for change in date of birth in the year 2007 after the lapse of 25 years. Hence keeping in view the facts and circumstances of the case, it is clear that the proceedings initiated by the petitioner seeking alteration in the date of birth were intended on the basis of extraneous considerations just to prolong the service period.

12. A bare perusal of the aforesaid Rules makes it abundantly clear that the date of birth of a Government or civil servant once recorded at the time of joining of Government service as a general principle shall be final and would not be altered except (i) there is a clerical mistake (ii) the change is sought immediately placing on record the documents by specifically pleading the clerical error. The Service Rule as applicable in the province of Sindh narrow down the scope for change of date of birth by stipulating that no alteration shall be permissible after the first entry in the service record.

13. Reliance in this regard is placed on the case of Muhammad Khaliq Mandokhail Versus Government of Balochistan and others reported as 2021 S C M R 595 wherein the Honorable Supreme Court has held 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. This Court in a number of cases has discouraged change in the date of birth of a civil servant, which could be for the purpose of unduly enhancing the tenure of service in employment. In the case of Ali Azhar Khan Baloch v. Province of Sindh (2015 SCMR 456), it has been held by this Court that a civil servant could not seek alteration in his date of birth at the verge of his retirement. The material produced and examined by the Tribunal clearly suggests that the petitioner got changed his date of birth when he was at the verge of his retirement.

14. In another case of Manzar Zahoor Versus Layari Development Authority and another reported as 2022 S C M R 1305 Honourable Supreme Court of Pakistan reviewed the provisions of services laws relating to change of date of birth of an employee and held that:

23. In the wake of above discussion, we have reached to the final that the notification permitting the alteration in the date of birth of the petitioner at the verge of his retirement was issued in violation and contravention of the law, therefore it was lawfully rescinded by the Chief Secretary, Sindh in order to rectify the error, hence the principle of locus poenitentiae does not apply. The Civil Petition is dismissed and leave is declined.

15. The employer if at any stage finds that the employee with an intention to elongate his service has changed the date of birth, such an interpolation in the service record of the employee can be rectified by invoking the provisions of Rule 171 of Civil Service Regulations. The Employer in the present case found that the Petitioner after the lapse of about 25 years altered his date of birth in service book, therefore, vide letter dated 03.06.2024 called upon the Petitioner to show cause how the date of birth was tempered in service book, which petitioner failed to reply satisfactorily. The Respondent No 1 rightly held that the date of Birth of the Petitioner was 11.07.1963 which he got recorded at the

time his entry into government service. Such correction in the service record was within the powers of Respondent No 1 being the competent authority.

16. Strength in this regard is sought from the case of Ali Bux Shaikh Versus The Chief Secretary to Government of Sindh Karachi and others reported as 2023 P L C (C.S.) 831 wherein Honorable Supreme Court of Pakistan has held that:

8. The main contention of the petitioner was that under Rule 12-A of the Sindh Civil Servants (Appointments, Promotion and Transfer) Rules 1974, the date of birth once recorded by a civil servant at the time of joining Government service shall be final and no alteration shall be permissible and the age mentioned in the service book shall be given preference. There is no disbelief or reservation to the niceties of the aforesaid Rule but, the other way round, this Rule does not prohibit or restrain the competent authority from inquiring into cases where, on the face of it, certain interpolations are made by the Civil Servant in the service book, or where he provided wrong date in the service record. In such a case, obviously, the correction may be made after due satisfaction and inquiry and each case has to be decided on its own facts and circumstances. In the case in hand, the actual date of birth of the petitioner has been verified and proved beyond any reasonable doubt and after due diligence and satisfaction, the competent authority has taken the decision which was affirmed by the Tribunal. The petitioner cannot plead that by all means, the wrong entry made in the service book should be treated sacrosanct or as gospel truth which could not be rectified in any circumstances, despite being found and proved to be incorrect, deceitful and or interpolated.

17. The Petitioner has sought change in date of birth in service record, under writ jurisdiction of this Court. The claim of the Petitioner regarding his date of birth was denied by the Respondents through documentary evidence, thus became a disputed question of fact which cannot be thrashed out in proceedings under writ jurisdiction. The Petition on said score was not maintainable.

18. This view finds support from the judgment of Honorable Supreme Court of Pakistan in the case of The Executive Director (P&Gs) State Life, Principal Office Karachi and others Versus Muhammad Nisar, Area Manager, State Life Corporation of Pakistan, Peshawar zone, Peshawar reported as 2025 SCMR 249, wherein it was held that:

13. In the case of Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar and others v. Shah Faisal Wahab and others (2023 SCMR 1642) and Special Secretary-II (Law and Order), Home and Tribal Affairs Department, Government of Khyber Pakhtunkhwa, Peshawar and others v. Fayyaz Dawar (2023 SCMR 1442) (authored by one of us) it was held that the extraordinary jurisdiction under Article 199 of the Constitution is intended to provide an expeditious remedy in a case where the illegality of an impugned action can be established without any elaborate enquiry or recording of evidence, but if some complicated or disputed question of facts are involved, the adjudication of which could only possible to be resolved and decided by the Courts of plenary jurisdiction after recording evidence of the parties, then obviously the High Court should not embark on deciding convoluted issues of facts. The extraordinary jurisdiction under Article 199 of the Constitution is envisioned predominantly for affording an express remedy where the unlawfulness and impropriety of the action of an executive or other governmental authority could be substantiated without any inquiry. The expression "adequate remedy" signifies an effectual, accessible, advantageous and expeditious remedy. In the case in hand, the remedy of filing civil suit was an appropriate and alternate remedy as *remedium juris* which was more convenient, beneficial, and effective. Controverted questions of fact, adjudication on which is possible only after obtaining all types of evidence in power and possession of parties, can be determined only by the courts having plenary jurisdiction in the matter, and on such ground the constitutional petition was incompetent (Ref: *State Life Insurance Corporation of Pakistan v. Pakistan Tobacco Co. Ltd.* [PLD 1983 SC 280]).

19. The Perusal of the impugned order dated 09.07.2024 reflected that the Petitioner was conveyed retirement with effect from 10.07.2023 per his date of birth maintained under service record at the time of joining in service. The impugned order dated 09.07.2024 was rightly issued by the Respondent No 1 being the principal administrative officer of the Zila Council. No illegality or irregularity could be pointed out in the impugned order that may warrant interference of this Court to invoke powers under its extra - ordinary writ jurisdiction conferred under article 199 of the Constitution.

20. For what has been discussed herein above, we are of the considered view that Petitioner has failed to make out a case for indulgence of this Court under

its writ jurisdiction. Consequently this Petition fails and accordingly dismissed with no order as to the cost along with listed applications, if any.

JUDGE

JUDGE

Larkana
Dated. 17.09.2025
Approved for Reporting