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W.P. No.19295/2020

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE JAI KUMAR PILLAI

WRIT PETITION No.19295 of 2020

PRAMILA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Akshay Bhonde, learned counsel for the petitioner.

Shri Amit Bhatia, learned Government Advocate for the respondents No.1 to 4/State

Shri S.P. Pandey, learned counsel for the respondent No.5.

Reserved on : 11/12/2025

Post on : 13/01/2026



ORDER

The present writ petition has been filed under Articles 226 of the Constitution of India calling in question the legality, propriety and correctness of the order dated 01/09/2020 passed by Respondent No.3 (Additional Collector, District Dhar), whereby the appeal preferred by Respondent No.5 against her superannuation was allowed and the consequential order dated 21/11/2020 passed by Respondent No.4, by which Respondent No.5 was reinstated as “Anganwadi Sahayika” and the petitioner was removed from service.

2. It is the case of the petitioners that the petitioner was appointed as Anganwadi Sahayika at Anganwadi Centre, Jamli (Ambapura) pursuant to a duly notified selection process conducted in accordance with the policy guidelines issued by the Women and Child Development Department, Government of Madhya Pradesh. The petitioner was issued an appointment order dated 19/06/2018, after due verification of eligibility and merit and she joined the post and continued to discharge her duties satisfactorily.

3. It is further stated that respondent No.5 Hirlibai, was earlier working on the same post. As per the official service record maintained by the department, her date of birth was recorded as 05/03/1955. In view of the prescribed age of superannuation being 62 years,



Respondent No.5 was retired from service on 05/03/2017. The order of superannuation was never questioned or challenged by Respondent No.5 at the relevant point of time. After the post became vacant due to the retirement of Respondent No.5, the Competent Authority issued an advertisement and completed the selection process, culminating in the appointment of the petitioner. The petitioner thus acquired a legitimate right to hold the post, subject to law.

4. Moreover, nearly two years after retirement of Hirlibai (Respondent No.5), she filed an appeal on 26/12/2019 before the Additional Collector, Dhar, claiming that her date of birth was wrongly recorded and that she was, in fact, born on 01/01/1964. The entire claim was founded solely on the entries made in her Aadhaar Card and Voter Identity Card. The Appellate Authority, without examining the delay, without scrutinising the evidentiary value of the documents relied upon, and without impleading or hearing the petitioner, allowed the appeal vide order dated 01/09/2020. On the basis of the said order, Respondent No.4 passed the consequential order dated 21/11/2020, reinstating Respondent No.5 and terminating the petitioner's services by the same order.

5. Learned counsel for the petitioner contended that the impugned orders are vitiated on multiple counts. Firstly, the appeal itself was not maintainable as it was filed after an unexplained delay of two years.



Secondly, the reliance placed on Aadhaar Card and Voter ID Card is wholly misplaced, as these documents are not recognized as conclusive proof of date of birth under service law. Thirdly, the petitioner was condemned unheard, resulting in gross violation of the principles of natural justice.

6. *Per contra*, the respondents have raised a preliminary objection regarding the availability of an alternative remedy. On merits, it is submitted that once the Appellate Authority set-aside the order of superannuation of Respondent No.5, the department was bound to comply, as there exists only one sanctioned post of Anganwadi Sahayika at the centre in question.

7. Heard both parties at length and examined the entire record available.

8. In view of the objection of the respondents that the impugned order dated 01/09/2020 is an appealable order, it is relevant to observe that respondent No.3, while deciding the appeal, did not implead the petitioner as a necessary party, resulting in serious prejudice to the petitioner who has remained out of service for more than two years. Accordingly, this Court finds it appropriate to entertain the matter in the interest of justice.

9. It is an admitted position that Respondent No.5 stood retired on



05/03/2017 on the basis of the date of birth recorded in her official service record. The said record remained unquestioned throughout her tenure. The law is well settled that an employee who accepts the date of birth recorded in service records and allows it to attain finality cannot be permitted to challenge the same after retirement.

10. The Appellate Authority completely ignored the doctrine of delay and laches, which is fatal in service jurisprudence. Once a person retires from service, the relationship of employer and employee comes to an end and reopening settled issues after retirement causes administrative uncertainty and injustice to third parties, as has happened in the present case.

11. Further, the principal foundation of the impugned appellate order dated 01/09/2020 is the date of birth mentioned in the Aadhaar Card and Voter Identity Card of Respondent No.5, wherein her date of birth is shown as 01/01/1964. The legality of the said reliance requires careful examination in the light of settled principles governing service jurisprudence.

12. It is trite law that in service matters, the date of birth recorded in official service records enjoys a presumption of correctness, as the same is recorded at the time of entry into service and remains the basis for determination of service tenure, seniority and superannuation. Any challenge to such entry must be raised at the earliest point of time and



supported by unimpeachable evidence.

13. In the present case, Respondent No.5 admittedly entered service with her date of birth recorded as 05/03/1955. She continued in service for decades without raising any objection to the said entry. The order of superannuation dated 05/03/2017 was also accepted without protest. Thus, the service record attained finality.

14. The issue is no longer res integra in view of the authoritative pronouncement of the Hon'ble Supreme Court in **Saroj & Ors. v. IFFCO-Tokio General Insurance Co. & Ors., Civil Appeal** (arising out of **SLP (C) Nos. 23939-23940 of 2023**), wherein the Hon'ble Apex Court has categorically held as under:

“9.6 We find that the Unique Identification Authority of India¹³, by way of its Circular No.08 of 2023, has stated, in reference to an Office Memorandum issued by the Ministry of Electronics and Information Technology dated 20th December 2018, that an Aadhar Card, while can be used to establish identity, it is not per se proof of date of birth. This office memorandum dated 20th December, 2018 was taken note of by a learned Division Bench of the Bombay High Court in State of Maharashtra v. Unique Identification Authority of India and Ors. Criminal Writ Petition No.3002 of 2022 in its order dated 28th July, 2023.”



15. Moreover, **In Ram Kripal alias Chirkut v. Deputy Director of Consolidation & Others, Civil Misc. Writ Petition No.13286 of 1981, All. HC** the Allahabad High Court ruled that the informal nature of the date of birth recorded in the voter list and voter ID card renders it unreliable for determining the actual date of birth. The relevant excerpt is mentioned hereinbelow:

“22. The evidence being insignificant would not shift the burden on shoulders of the petitioners. There appears to be no reason as to why Smt. Gulabi did not examine any of her relatives in support of her case. The evidentiary value of voter list of the year 1966 and 1973 is also of inconsequential nature. The voter-list is prepared on the statement and particulars furnished by such person. It is in the nature of self serving evidence. It is not safe to place much reliance upon it, in such matters. However, our legal system has always emphasis on value, weight and quality rather than quantity, multiplicity or plurality of witness. Nothing has come on record to connect Smt. Gulabi with the said birth entry.

23. Therefore, on facts at hand, in the absence of evidence to show on what material the entry in the Voters List in the name of the accused was made, a mere production of a copy of the Voters List, though a public document, in terms of Section 35, was not sufficient to prove the age of the accused.”

16. Applying the aforesaid legal principles to the present case, it is



evident that the Aadhaar Card and Voter Identity Card relied upon by Respondent No.5 cannot be treated as determinative proof of her date of birth. These documents are prepared on the basis of self-declaration and are meant for identification purposes alone. They are neither primary evidence nor statutory proof for determination of age in service matters.

17. It is further significant that the date of birth mentioned in the Aadhaar Card of Respondent No.5 is 01/01/1964, which is a commonly used approximate date, adopted when authentic proof is not available. Such an approximate entry, by its very nature, lacks evidentiary sanctity and cannot override official service records maintained by the employer.

18. More importantly, the claim of Respondent No.5 is rendered wholly implausible when tested on the anvil of surrounding circumstances placed on record. The documents filed by the petitioner demonstrate that the son of Respondent No.5 has a recorded date of birth of 01.01.1959 and the daughter-in-law has a recorded date of birth of 01.01.1960. These undisputed facts clearly negate the possibility of Respondent No.5 having been born in the year 1964.

19. The Appellate Authority failed to examine these crucial factual aspects and mechanically accepted the claim of Respondent No.5 solely on the basis of Aadhaar Card and Voter ID Card. Such an approach is contrary to settled law and amounts to a perverse exercise of



jurisdiction, warranting interference by this Court.

20. Further, the petitioner was appointed as Anganwadi Sahayika after due selection and issuance of a formal appointment order dated 19/06/2018. Her appointment was not ad-hoc or temporary in nature but was made in accordance with the prescribed guidelines. Consequently, the petitioner acquired a valuable civil right to continue on the post, subject to law.

21. It is an admitted position that the petitioner was neither impleaded as a party in the appeal preferred by Respondent No.5 nor was she served with any notice or afforded an opportunity of hearing before passing the order dated 01/09/2020. The impugned order directly resulted in the termination of her services, thereby visiting her with serious civil consequences.

22. The law is well settled that any administrative or quasi-judicial order which entails civil consequences must comply with the principles of natural justice, particularly the rule of audi alteram partem. Even where the statute is silent, the requirement of fairness is read into the decision-making process.

23. In the present case, the Appellate Authority was fully aware that the post in question was already occupied by the petitioner pursuant to a lawful appointment. Despite such knowledge, the authority proceeded



to decide the appeal behind her back. This omission strikes at the very root of fair procedure and renders the order void.

24. The consequential order dated 21/11/2020 passed by Respondent No.4, terminating the petitioner's services, is equally unsustainable. No independent notice of termination was issued, no inquiry was conducted and no reasons were assigned before terminating the services of the petitioner. The petitioner was removed merely as a collateral consequence of the appellate order, which itself is legally flawed.

25. Such a method of termination not only violates the principles of natural justice but also runs contrary to the departmental guidelines governing removal of Anganwadi Workers, which mandate prior notice and opportunity of hearing. The respondents have failed to demonstrate compliance with these mandatory requirements.

26. In view of the foregoing discussion, analysis and findings, this Court is of the considered opinion that the impugned order dated 01/09/2020 passed by Respondent No.3 and the consequential order dated 21/11/2020 passed by Respondent No.4 are unsustainable in the eyes of law and deserve to be interfered with.

27. Accordingly, the impugned orders dated 01/09/2020 and 21/11/2020 are hereby **quashed**.

28. The respondents are directed to reinstate the petitioner on the post



of Anganwadi Sahayika, Anganwadi Centre Jamli (Ambapura) and the benefit with continuity of service and all consequential benefits, including notional seniority and monetary benefits, as may be admissible in accordance with law shall be extended to her.

29. The respondents/Appropriate Authorities are further directed to recover the entire amount from respondent No.5 paid towards salary and other monetary benefits with 6% interest per annum, for which she was not legally entitled after her superannuation i.e. 05/03/2017 and to deposit the said amount with the Competent Authority/State exchequer within a period of 60 days from the date of receipt of certified copy of this Order.

30. Accordingly, the writ petition stands **allowed** with the directions hereinabove.

31. Pending applications, if any, shall be **disposed of** accordingly.

(Jai Kumar Pillai)
Judge

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