

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 16484 of 2022**

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GOPALBHAI NARANBHAI VAGHELA
Versus
UNION OF INDIA & ANR.

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Appearance:

MR RAMNANDAN SINGH(1126) for the Petitioner(s) No. 1
MR PATHIK M ACHARYA(3520) for the Respondent(s) No. 1
MR YOGI K GADHIA(5913) for the Respondent(s) No. 2

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CORAM:HONOURABLE MRS. JUSTICE MAUNA M. BHATT**Date : 26/02/2024****ORAL ORDER**

1. The petitioner-employee has filed this petition seeking following prayers:

“9(A) YOUR LORDSHIPS MAY BE PLEASED TO admit and allow this Special Civil Application;

(B) YOUR LORDSHIPS MAY BE PLEASED TO issue writ of Mandamus or any other appropriate writ, order or direction, directing the respondent No.1 to fix monthly pension of the petitioner under the Employees Provident Fund Scheme as well as to pay arrears of such pension which has accrued commencing from 1.4.2021 till date of its realization

in favour of the petitioner as he superannuated on 31.3.2021 by further direction the respondent company to take necessary step, which is required under the PF Scheme, 1995.

(C) Alternatively, YOUR LORDSHIPS MAY BE PLEASED TO direct the respondent No.1 to release the pension of the petitioner at an earliest.

(D) YOUR LORDSHIPS MAY BE PLEASED TO direct the respondent authorities to pay interest at the rate of 7% on the arrears of pension for inaction on the part of the respondent authorities from 1.4.2021 till date of its realization.

(E) Your Lordships may be pleased to pass any other appropriate and just order/s as deemed fit, just and proper in the interest of justice;”

2. Facts, referred in the petition, are as under:

The petitioner was appointed in Ahmedabad Electricity Company Ltd. in the year 1984, which subsequently named as Torrent Power Ltd. The petitioner superannuated on 31.03.2021, and at that time he had completed more than 30

years of service. It is case of the petitioner that at the time of his appointment, he mentioned his date of birth as 29.03.1963, which is true and mentioned in his School Leaving Certificate also. However, on account of inadvertent / typographical error, his date of birth in service record was referred as 29.09.1963. Subsequently, upon superannuation, he was not paid the Pension and upon approaching office of respondent No.1, he was informed that Pension cannot be disbursed, since his date of birth does not match with the date mentioned in the Adhar Card. Since the pension was not released in his favour, the present petition is filed.

3. Heard Mr.Ramnandan Singh, learned advocate for the petitioner, Mr.Pathik M. Acharya, learned advocate for respondent No.1 and Mr.Yogi Gadhia, learned advocate for respondent No.2.

4. Mr.Ramnandan Singh, learned advocate for the petitioner submitted that date of birth as evident from the School Leaving Certificate is 29.03.1963 and therefore, the same being correct date, he is entitled for the pension, as prayed for. Reliance placed by office of respondent No.1 on Adhar Card is of no relevance since the date referred in Adhar Card is not required to be taken into consideration for the purpose of release of Pension.

5. On the other hand, Mr.Yogi Gadhia, learned advocate for respondent No.2 fairly submitted that there is no dispute with regard to the date of birth as referred by the petitioner in his service record. But it appears that due to some inadvertent error, some other date has been mentioned in the Adhar Card, than mentioned in the School Leaving Certificate. He could not dispute that date of birth referred in the School Leaving Certificate is required to be taken into consideration for the purpose of date of birth, if any dispute arose. Learned Advocate submitted that the office of respondent No.1, is to release the Pension in favour of the petitioner and if Pension is released in favour of the petitioner by taking into consideration the date of birth as 29.03.1963 as referred in the School Leaving Certificate, he has no objection.

6. Mr.Pathik Acharya, learned advocate for respondent No.1 submitted that Pension is to be paid through Online application. Since the date of birth was not matching with the date of birth referred in the Adhar Card, pension could not be released. However, he could not dispute that in view of Circular No.08 of 2023 by Unique Identification Authority of India, the date referred in the Adhar Card is not a proof of date of birth and accordingly, Provident Fund Authority has also circulated the said Circular concerning all its department. Therefore, now the date of birth as mentioned in School

Leaving Certificate can be taken into consideration and appropriately the pension can be released.

7. Therefore, in view of Circular No.08 of 2023 by Unique Identification Authority of India, accepted by the Provident Fund Authority, office of respondent No.1 is directed to release the pension along with arrears in favour of the petitioner, within a period of two weeks from the date of receipt of this order. If the pension along with arrears shall not be paid within a period of two weeks as directed hereinabove, it shall bear interest at the rate of 6% per annum. With the above directions, the present petition stands disposed of.

(MAUNA M. BHATT,J)

DIPTI PATEL...