GAHC030008442025

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/160/2025

Sh. C. Lianhluna
S/o Lalzama (L)
R/o Republic Venghlun, Aizawl, Mizoram

VERSUS

The Secretary to the Govt. of Mizoram and 3 Ors.
Cooperation Department, Mizoram, Aizawl 2:The Mizoram Cooperative Apex Bank Ltd.
r/b its Chief Executive Officer

3:The Deputy General Manager
Administration Department

4:Assistant General Manager
Planning and Monitoring Departmen

B E F O R E
HON'BLE MR. JUSTICE PRANJAL DAS

For the Appellant : Mr B Lalramenga

For the Respondent(s) : Mrs. Vanneihsiami, learned Government Advocate for respondent No. 1 and Mr. C. Lalfakzuala, learned counsel for respondent Nos. 2 to 4.

Date on which judgment is reserved : **25.02.2026**

Date of pronouncement of judgment : **03.03.2026**

Whether the pronouncement is of the operative part of the judgment ? : N/A

Whether the full judgment has been pronounced? : Yes

JUDGMENT & ORDER (CAV)

1. Heard Mr. B. Lalramenga, learned counsel for the petitioner. Also heard Mrs. Vanneihsiami, learned Government Advocate for respondent No. 1 and Mr. C. Lalfakzuala, learned counsel for respondent Nos. 2 to 4.

2. The instant writ petition has been filed by the petitioner, namely, Sri C. Lianhluna, aggrieved by order dated 03-11-2025, passed by the Respondent No. 2, being the Chief Executive Officer of Mizoram Co-operative Apex Bank, vide letter No. MCAB/A-67/2025-26/2, whereby the date of birth of the petitioner for the purpose of superannuation was to be taken as 24-02-1966, instead of the date of 24-02-1968 purportedly recorded in the service book.

3. The basic contention of the writ petitioner is that though initially his date of birth was recorded as 24-02-1966, but subsequently on 15-04-2016, it was corrected as 24-02-1968, which is stated to be his actual date of birth and therefore, seeking to make his date of birth 24-02-1966 again at the fag end of his career has prejudiced him and amounts to retiring him prematurely in an unfair manner.

4. Accordingly, the writ petitioner is seeking interference with the said impugned order passed by respondent No. 2. Four respondents have been impleaded, with respondent Nos. 2, 3 and 4 being the Chief Executive Officer,

Deputy General Manager and Assistant General Manager respectively of the Mizoram Co-operative Apex Bank (herein after **MCAB** for short).

5. Respondent No. 1 is the Secretary to the Mizoram Co-operation Department. The respondent Nos. 2 to 4 have filed a common affidavit in opposition and the writ petitioner has filed an affidavit-in-reply to the said affidavit in opposition filed by respondent Nos. 2 to 4.

6. Before proceeding further, the facts contended by the writ petitioner may be stated. It is stated that the writ petitioner joined the MCAB on 28-02-1991 as a clerk-cum-cashier and his appointment order was dated 28-02-1991. Thereafter, he was promoted to the junior management grade by notification dated 25-04-2016 and he was further promoted to the Middle Management Grade III on 19-03-2025. It is stated that presently he is serving in the said Middle Management Grade III. He has annexed as Annexure - 1 and 2, the copies of the orders dated 28-02-1991 and 25-04-2016 as mentioned above. It is further stated by the petitioner that at the time of preparation of the petitioners service book, his date of birth was incorrectly entered as 24-02-1966, whereas his true and correct date of birth was 24-02-1968 as reflected in his birth certificate, Baptismal certificate, school records and other supporting documents. It is stated that he approached Respondent No. 2 by submitting a representation for correction of his date of birth and in response to the same, the respondent No. 3 by letter No. MCAB-Adm-C-20/2015-16/4 dated 21-12-2015 informed the petitioner that all the documents kept by the MCAB reflected his date of birth as 24-02-1966 and therefore, if he desired alteration of his date of birth, he should resolve the matter before a Court of law and submit the court's order for correction of his date of birth. The said letter dated 21-12-2015

was annexed as Annexure – 3 and 3 A.

7. It is further stated by the petitioner that subsequent to the above direction of the authority, he executed an affidavit dated 08-01-2016 before the learned Chief Judicial Magistrate, Aizawl affirming that his correct date of birth is 24-02-1966 as recorded in the birth certificate and Baptismal certificate. He stated that although the instruction of the respondent No. 3 in his letter dated 21-12-2015 was to resolve the matter before a competent court of law, but the petitioner approached the concerned authorities of MCAB again and he was verbally asked to submit an affidavit along with his relevant documents showing his correct date of birth.

8. It is stated that accordingly the petitioner submitted his birth certificate, Baptismal certificate etc. with his affidavit dated 08-01-2016 to the respondent Nos. 2 to 4 and prayed for rectification of his date of birth as 24-02-1968. The petitioner has annexed as an Annexure – 4, copy of his affidavit dated 08-01-2016; his birth certificate as Annexure - 5, his Baptismal certificate as Exhibit - 6. It is stated by the petitioner that after submission of the aforesaid documents, the respondent Bank processed his file and routed it through the concerned authorities and his prayer for correction of his date of birth to 24-02-1968 in his service book was approved and allowed on 15-04-2016. Accordingly, the date of birth of 24-02-1966 appearing in his service book was struck off and replaced with 24-02-1968. The petitioner has annexed as Annexures 7 and 8, the extracts of the note sheet pertaining to the matter and the relevant pages of his service book.

9. It is stated by the petitioner that after correction of his date of birth as 24-02-1968, no subsequent alteration of his date of birth was made. However, he

was verbally informed by some of his colleagues that he would be retiring in February, 2026 on the basis of his earlier date of birth and therefore, upon verbal inquiry he was informed by respondent No. 2 Bank that his date of birth accepted by MCAB was 24-02-1966. In these facts and circumstances, the petitioner submitted a representation dated 04-09-2025 to respondent No. 2 Bank ventilating his grievance regarding the matter and narrating the backdrop of change of his date of birth in the service book.

10. A copy of that representation dated 04-09-2025 has been annexed as Annexure 9. The petitioner further states that in response to the petitioner's representation mentioned above, the respondent No. 2 Bank issued the impugned letter dated 03-11-2025 bearing No. MCAB/A-67/2025-26/2 in which the date of birth of the petitioner was accepted by MCAB as 24-02-1966. It was mentioned that as his application for correction of his date of birth was made after a lapse of 24 years, such alteration cannot be allowed in the light of the Staff Service Rules (SSR) 2024, specifically Note 108 as the application was beyond stipulated period of five years of joining. The impugned letter dated 03-11-2025 has been annexed as Annexures 10 and 11.

11. The petitioner contends that his date of birth was rectified by striking off the earlier date of birth and replacing it with 24-02-1968. It is contended and stated that after the said correction, as there is no subsequent alteration of his date of birth of 24-02-1968 – therefore, the reason stated by the respondent No. 2 Bank in the letter dated 03-11-2025 is untenable and without any basis.

12. It is contended that the change of date of birth of the petitioner made on 15-04-2016 has attained finality and it cannot be changed. It is also contended that after the correction of the date of birth on 15-04-2016, the respondent No.

2 Bank has acted upon in various official matters. In this context, the petitioner has referred to a loan sanction order dated 02-03-2022 bearing number MCAB/L&A/47/2021-22/290 regarding sanctioning of staff house building allowances for 72 months.

13. It is stated that petitioner's date of superannuation was clearly written as 24-02-2028 in one part of the loan sanctioning letter. The said letter has been annexed as Annexure - 12 in the writ petition. The petitioner has also mentioned about an eligibility list issued by the bank for obtaining festival advance and that in the said letter dated 27-11-2025 his name figuring at serial No. 70 shows his entitlement to get Rs 1.7 lakhs as festival advance and it is mentioned that the recovery commenced from January, 2026 and completed in October, 2026 indicative of the fact that his date of birth is 24-02-1968 and retirement is in 2028. The said letter has been annexed as Annexure -13.

14. The petitioner in support of aforesaid contentions has also referred to a pay increment order dated 25-06-2025 indicating his name at serial No. 5 and in which it is also stated that next increment will be in July, 2026, which also indicates that the petitioner would not retire in February, 2026. One of the main contentions of the writ petitioner is that after the date of birth of 24-02-1968 was recorded in his service book, there has been no subsequent alteration and therefore, the impugned letter dated 03-11-2025 issued by the respondent Bank proposing to accept his date of birth of 24-02-1966 is prejudicial and wrong and he seeks interference with the said impugned letter. It is contended by the petitioner that it has been more than 9(nine) years after his date of birth was rectified in the service book and at this belated stage the respondent Bank cannot seek to change his date of birth.

15. As mentioned earlier, the respondent Nos. 2 to 4 representing the MCAB filed a joint affidavit in opposition. The letter of authorization given to the deponent, who is the Executive Officer of the Bank, to file the affidavit on behalf of the other two respondents, has been annexed as Annexure - 1.

16. It is contended and stated that the correct date of birth of the petitioner as approved by the authorities is 24-02-1966. It is stated that the respondents were under the impression that date of birth was legally rectified due to the fact that the then Deputy General Manager was unaware of the State Government Rules and wrongfully struck off the correct date of birth written as 24-02-1966 and replaced it with the incorrect date of birth of 24-02-1968. It is contended and stated that no administrative order or notification was issued by the bank regarding the said notification and that the action taken by the Deputy General Manager and the opinion of the CEO in the note sheet mentioning the word 'approved' was based on wrong assumption that a self-declaration of date of birth by affidavit dated 08-01-2026 is a court order.

17. It is contended that the petitioner had been advised to obtain a court order regarding the same but instead of doing that he submitted an affidavit and due to misrepresentation of fact the same was accepted wrongly at that time. The respondents have reiterated and contended that no administrative order or notification validating the said action regarding alteration of date of birth was issued. It is stated by the answering respondents that the petitioner declared his date of birth as 24-02-1966 in the service book by subscribing his signature; that, the petitioner at the time of joining the bank submitted no other age group except HSLC certificate in which date of birth was recorded as 24-02-1966; that, in his letter of admission and authority for group savings linked

insurance scheme also, he declared his date of birth as 24-02-1966. In the nomination and declaration form under the employees provident fund and employees pension scheme also, he declared his date of birth as 24-02-1966. These documents have been annexed with the affidavit in opposition as Annexures – 2, 3 and 4 respectively.

18. It is contended by the answering respondents that the information given to the petitioner by the Deputy General Manager was incorrect and not binding on the answering respondents and it is reiterated by the answering respondents that the petitioner instead of obtaining a Court order had executed an affidavit dated 08-01-2026 declaring his date of birth. It is reiterated and contended that the then Deputy General Manager was unaware of the State Government rules and wrongly and incorrectly struck off the date of birth of 24-02-1966 and replaced it with incorrect date of birth of 24-02-1968. It is contended and reiterated that the word 'approved' written by the then CEO in the note sheet was based on a wrong assumption that a self-declaration affidavit was a court order.

19. The respondents stated that change in the date of birth can only be done as per rule. In this context, a reference is made to **Rule 39 (5) of the Staff Service Rules (SSR) of the Bank of 2011** in which it is stated that on first appointment, the date of birth shall be recorded in all documents by Christian era supported by documentary proof such as birth certificate or HSLC certificate which shall not be altered, except in case of clerical errors. However, the Managing Director may allow alteration in exceptional cases, if he is satisfied of the correctness.

20. It is further stated and contended that after the repeal of SSR, 2011 the present SSR 2024, again makes similar provisions. It is contended that the petitioner approached the bank for correction of date of birth after more than 5(five) years which is a violation of Note 6 of Rule 56 of the Fundamental Rules and therefore, the action taken by the Deputy General Manager and the CEO at that time was unlawful and void. The relevant extracts of Rule 108 of SSR, 2011 and Rule 108 of SSR Rules, 2024 have been annexed as Annexures 5 and 6 with the affidavit in opposition.

21. It has been contended that internal note sheets or notings recorded within departmental files do not constitute legally binding decisions, unless formalized in authenticated orders. These notings are regarded as expressions of opinion or internal deliberations lacking legal action. With regard to the loan document relied upon by the petitioner, the answering respondents said that the same cannot be treated as a correct date of birth of the petitioner.

22. With regard to the festival advance document relied upon by the petitioner, a similar contention is made that the same cannot be indicative of any fact that the petitioner would retire in 2028 instead of 2026.

23. The writ petitioner filed a rejoinder affidavit by way of reply to the affidavit in opposition by the respondent Nos. 2 to 4 representing the bank MCAB. It is stated by the petitioner in the rejoinder affidavit that the respondents have failed to produce any lawful order cancelling or reversing the correction of date of birth made on 15-04-2016.

24. The writ petitioner has reiterated that the documents referred to by the respondents such as group savings linked insurance scheme, employee's

pension scheme nomination etc. pertain to period prior to the correction made in the service book on 15-04-2016. The writ petitioner reiterates that the respondents have failed to produce any lawful order cancelling or reversing the correction.

25. The petitioner contends that the date of birth has been validly corrected and processed in 2016 itself and this late stage, the respondent Bank cannot go back to the earlier date of birth of 24-02- 1966. The learned counsel for the writ petitioner submits that the date of birth of the petitioner was rightly corrected through a valid process which was approved by the then CEO of the bank in a file noting and accordingly, the earlier date of birth was struck off and the correct date of birth of 24-02-1968 was inserted in the service book along with counter signature and seal. It is submitted by the learned counsel for the writ petitioner that in several documents, the bank authorities have relied upon the corrected date of birth of the petitioner and now at this belated stage, they cannot resile from the same and make him retire in February, 2026.

26. It is submitted by the petitioner's counsel that the respondent bank authorities have not given any opportunity of hearing to the petitioner regarding their attempt to make him retire on the basis of date of birth of 24-02-1966, instead of the corrected date of birth of 24-02-1968. The learned counsel for the writ petitioner submits that such an order issued by the respondent No. 2 by order dated 03-11-2025 is completely untenable and liable to be interfered with in this writ jurisdiction. It is submitted that such impugned order has caused him substantial prejudice.

27. On the correction in service book, the learned counsel for the respondent Nos. 2 to 4 representing the bank MCAB submits that the correction is contrary

to the laws governing the subject matter. The staff service rules clearly indicate that no correction of date of birth can be allowed after five years and in the case of the petitioner, such correction was done long after, the stipulated 5(five) year period. It is submitted by the learned counsel that in the service book and regarding date of birth there should be no overwriting but in the instant case the earlier date of birth has been struck off and new date of birth has been written and inserted.

28. The learned counsel for the Bank, supporting its pleadings in this context, submits that no administrative order whatsoever has been issued regarding correction of the date of birth of the petitioner and therefore, such correction has not been validly done and is not binding on the respondent bank. Referring to the staff service rules, it is submitted by the learned counsel that the correction of the date of birth of the petitioner was in violation of these rules and therefore, not binding on the respondent bank. It is submitted that notings in file are not binding administrative decisions and that therefore the notings regarding the change of date of birth of the petitioner sought to be relied upon by the petitioner in his support cannot be done.

29. It is submitted that the Bar of natural justice would not apply because the petitioner has committed a wrong and he cannot be allowed to take advantage of what has been done wrongly. The learned counsel for the respondent bank submits that there is no merit in this writ petition and it should be dismissed. The learned Additional Advocate General representing the respondent No.1, the State of Mizoram, Cooperation Department submits that the change in date of birth in this case has been contrary to the staff service rules under which such changes can be made only within the first five years of joining service.

30. It is submitted that any action contrary to the rules would be invalid and that the alteration made in the case of the petitioner did not have any legal sanction and therefore, it is wrong in law.

In support of his contentions the learned counsel for the petitioner relies upon the following decisions :-

Shankar Lal v. Hindustan Copper Ltd., reported in ***(2022) 6 SCC 211 –*** the relevant para 27, 28 and 29 thereof as pointed out may be reproduced herein below –

> "***27.*** *We find the action of the employer lacking in authority of law in this case on two counts. First, it fails for not adhering to the principles of natural justice. The decision not to follow the service book recorded was taken without giving an opportunity of hearing to the appellant. The opportunity of hearing of the appellant also accrued because the employer themselves had proceeded on the basis that the later date i.e. 21-9-1949 was the birth date of the appellant and this was a long established position. Moreover, since in the own records of the employer two dates were shown, under normal circumstances it would have been incumbent on their part to undertake an exercise on application of mind to determine in which of these two records the mistake had crept in. That process would also have had to involve participation of the appellant, which would have been compatible with the principles of natural justice.*
>
> ***28.*** *There are several authorities in which this Court has deprecated the practice on the part of the employees at the fag end of their career to dispute the records pertaining to their dates of birth that would have the effect of extension of the length of their service. We are not referring to those authorities in this judgment as the ratio laid down on that count by this Court is not relevant for adjudication of this appeal.*

29. *The very reasoning on which an employee is not permitted to raise age-correction plea at the fag end of his service to extend his tenure should also apply to the employer as well. It is the employer here who had proceeded on the basis of age of the appellant reflected in his service book during the latter's service tenure and they ought not to be permitted to fall back on the Form B which would curtail the VRS benefit of the appellant."*

31. In support of their contentions, the learned counsel for the respondent Nos. 2 to 4 relies upon the following decision :-

Bharat Petroleum Corpn. Ltd. & Anr. v. N.R. Vairamani, reported in ***(2004) 8 SCC 579 –*** the relevant para 9, 10 and 11 thereof as pointed out may be reproduced herein below :-

9. *Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of courts are neither to be read as Euclid's theorems nor as provisions of a statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. v. Horton [1951 AC 737 : (1951) 2 All ER 1 (HL)] (AC at p. 761) Lord MacDermott observed : (All ER p. 14 C-D)*

"*The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J., as though they were part of an Act of Parliament and*

applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge,…"

10. *In Home Office v. Dorset Yacht Co. [(1970) 2 All ER 294 : 1970 AC 1004 : (1970) 2 WLR 1140 (HL)] (All ER p. 297g-h) Lord Reid said, "Lord Atkin's speech … is not to be treated as if it were a statutory definition. It will require qualification in new circumstances". Megarry, J. in Shepherd Homes Ltd. v. Sandham (No. 2) [(1971) 1 WLR 1062 : (1971) 2 All ER 1267] observed:"One must not, of course, construe even a reserved judgment of Russell, L.J. as if it were an Act of Parliament." And, in Herrington v. British Railways Board [(1972) 2 WLR 537 : (1972) 1 All ER 749 (HL)] Lord Morris said : (All ER p. 761c)*

"*There is always peril in treating the words of a speech or a judgment as though they were words in a legislative enactment, and it is to be remembered that judicial utterances made in the setting of the facts of a particular case."*

11. *Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper."*

32. In the case of ***State of Mizoram v. C. Lalkima***, reported in ***2002 SCC OnLine Gau 13 : 2002 (2) GLT 94,*** which is also relied upon by the Bank, a reference may be made to para 5 and 6 as pointed out

"**5.** The Note 6 to FR 56 on which the learned Government Advocate for Mizoram relied on is extracted herein below:

"*The date on which a Government servant attains the age of fifty-eight years or sixty years, as the case may be, shall be determined with reference to the date of birth declared by the Government servant at the*

time of appointment and accepted by the appropriate authority on production, as far as possible, of infirmatory documentary evidence such as high school or higher secondary or secondary school certificate or extracts from birth register. The date of birth so declared by the Government servant and accepted by the appropriate authority shall not be subject to any alteration except as specified in this note. An alteration or date of birth of a Government servant can be made, with the sanction of a Ministry of Department of the Central Government, or the Comptroller and Auditor-General in regard to persons serving in the Indian Audit and Accounts Department, or an Administrator of a Union Territory under which the Government servant is serving, if

(a) a request in this regard is made within five years of his entry into Government service;

(b) it is clearly established that a genuine bona fide mistake has occurred; and

(c) the date of birth so altered would not make him ineligible to appear in any School or University or Union Public Service Commission examination in which he had appeared, or for entry into Government service on the date on which he first appeared at such examination or on the date on which he entered Government service."

The aforesaid Note 6 to FR 56 clearly stipulates that the date of birth as declared by the Government servant at the time of appointment and accepted by the appropriate authority cannot be altered subsequently without this sanction of the authorities mentioned therein.

In the present case it is not disputed that at the time of appointment the respondent declared his date of birth to be 1 March, 1935 and the said

date of birth was accepted by the appropriate authority at the time of his appointment. The specific cases in which the date of birth so declared and accepted by the appropriate authority at the time of his appointment can be altered have been given in Paras, (a), (b) and (c) of Note 6 to FR 56 and it appears in this case the date of birth of the respondent was altered from 1 March, 1935 to 1 March, 1942 on the request of the appellant under Para (a) In the aforesaid Note-6 to FR 56. But Para (a) clearly indicates that a request for change of date of birth can be made by the Government servant only within five years of the entry of the Government servant in the Government service. In this case the respondent entered into Government service on 11 March, 1958 whereas the Director of Agriculture Government of Mizoram, altered the date of birth of the respondent on 3 October, 1977 on a request made beyond the five years period stipulated in Para, (a) in Note 6 to FR 56 quoted above. Hence such an alteration made by the Director of Agriculture, Government of Mizoram, was npt authorized by the aforesaid Note 6 to FR 56 and was a nullity in law.

6. *Coming to the submission of Sri G. Raju that once the Director of Agriculture, Government of Mizoram, altered the date of birth of the respondent from 1 March, 35 to 1 March, 42 in the service book of the respondent, the altered date of birth could not further be altered without following the principle of natural justice, we are of that view that the principle of natural justice will apply only where the original date of birth as entered at the time of appointment on the basis of declaration of the Government servant is sought to be altered by the competent authority subsequently. This is because the date of birth so declared by the Government servant and accepted by the appropriate authority becomes the date of birth for the purpose of determination of the age of*

superannuation of the Government servant and any alteration in the said date of birth will affect the Government servant and will have civil consequences for him. It is for this reason, the Supreme Court in State of Orissa v. Dr. Miss Binapani Dei [A.I.R. 1967 S.C. 1269], held that the order determining the date of birth is administrative in character, but even an administrative order which involves civil consequences must be made consistently with the rules of natural justice after informing the parties affected by the order, the evidence in support thereof and giving an opportunity to such party of being heard and of meeting or explaining the evidence. In that case, the date of birth of the Government servant as recorded in the service book at the time of her appointment in the year 1938 and the said order was sought to be altered by an administrative order and the Supreme Court upheld the judgment of the High Court quashing the said order on the ground that the said administrative order was passed contrary to the principle of natural justice. But in the present case as discussed above, the date of birth as originally recorded was 1 March, 35 and by the impugned order, dated 8 August, 1996, the respondent was sought to be retired from service determining his age of superannuation on the basis of the said date of birth as 1 March, 1935 as originally recorded in his Service Book at the time of is appointment. This is not a case where the date or birth of the respondent as was declared and accepted by the appropriate authority at the time of his appointment was sought to be changed by the impugned order, dated 8 August, 1996."

33. I have perused the pleadings, the impugned order, the annexed documents and other relevant materials. I have considered the submissions of the learned counsel for the respective parties. I have considered the decisions submitted at the Bar.

34. Upon perusing the materials and considering the submissions of the learned counsel on both the sides, it appears that the primary contention of the petitioner is that though initially his date of birth was recorded as 24-02-1966, but subsequently vide a process pursuant to his application and submission of an affidavit annexed with documents – his date of birth was corrected to 24-02-1968. Further, it is the case of the petitioner that upon such correction which was duly recorded in the service book, his date of birth has remained as 24-02-1968. Ever since its correction on 15-04-2016 and without going into the issue all these years, the respondent bank is seeking to revert back to his original date of birth of 24-02-1966 and retire him at the end of February, 2026 instead of end of February 2028.

35. On the other hand, the case of the respondents is that the date of birth of 24-02-1966 was recorded on the basis of materials provided by the petitioner and he has himself endorsed it on several occasions. It is the further case of the respondent bank that the correction of the date of birth at the behest of the petitioner was done in an improper and illegal manner and as that was not followed up by any administrative order – the same cannot be binding upon the respondent bank. With regard to the aspect of natural justice also, it is the case of the respondent bank that as the date of birth was wrongly corrected at the behest of the petitioner, he cannot seek benefit of such principles.

36. Before proceeding further, Note 6 of Fundamental Rules FR 56 may be reproduced herein below –

> **Note 6**. The date on which a Government servant attains the age of fifty-eight years or sixty years, as the case may be, shall be determined with reference to the date of birth declared by the Government servant at the time of appointment and accepted

by the Appropriate Authority on production, as far as possible, of confirmatory documentary evidence such as High School or Higher Secondary or Secondary School Certificate or extracts from Birth Register. The date of birth so declared by the Government servant and accepted by the appropriate Authority shall not be subject to any alteration except as specified in this note. An alteration of date of birth of a Government servant can be made, with the sanction of a Ministry or Department of the Central Government, or the Comptroller and Auditor-General in regard to persons serving in the Indian Audit and Accounts Department, or an Administrator of a Union Territory under which the Government servant is serving, if –

(a) a request in this regard is made within five years of his entry into Government service;

(b) it is clearly established that a genuine bona fide mistake; and

(c) the date of birth so altered would not make him ineligible to appear in any School or University or Union Public Service Commission examination in which he had appeared, or for entry into Government service on the date on which he first appeared at such examination or on the date on which he entered Government service.

37. The employees of the Mizoram Co-operative Apex Bank MCAD are governed by the Staff Service Rules and the current Staff Service Rules are the Staff Service Rules (SSR) of 2024. Prior to that, there was the SSR of 2020 and before that, the Staff Service Rules (SSR) of 2011. As the date of birth of the petitioner was corrected in 2016, at that time the governing rules were the SSR, 2011.

38. It has been pointed out that the relevant rule is Rule 39 appearing in Chapter VI. The said Rule 39, SSR, 2011 may be reproduced herein below –

39 (1) A Service Book shall be maintained for each employee of the Bank from the

date of his/her first appointment to the Bank. It shall be kept in the custody of the Head of the Office/Branch in which he/she is serving and transferred with him/her from Office to Office.

(2) Every step in an employee's official life must be recorded in his/her Service Book, and each entry must be attested by the Head of his/her Office or if he/she himself/herself is the Head of an Office, by his/her immediate superior. The Head of Office must see that all entries are duly made and attested, and that the Book contains no erasure or overwriting, all corrections being neatly made and proper attested.

(3) Every period of suspension from employment and every other interruption of service must be noted, with full details of it duration, in an entry made across the page of the Service Book and must be attested by the head of his/her Office. It is the duty of his/her head to see that such entries are promptly made.

(4) It shall be the duty of every Head of Office to initiate action to show the Service Book of the employees under his/her administrative control every year and to obtain their signature therein in token of their having inspected the Service Books. The employees shall ensure before affixing their signature that their services have been duly verified and certified as such.

(5) The date of birth of all employees, on his first appointment, shall be recorded in all documents by Christian era, supported by documentary proof such as Birth Certificate or H.S.L.C Certificate which shall not be altered except in case of clerical errors. The Managing Director may, however, allow alteration in exceptional cases if he is satisfied of the correctness.

39. More specifically, the Rule 39(1) and Rule 39(5) are relevant. It has been pointed out that even in the Rules of 2024, the provisions of Rule 39(A) pertaining to date of birth has remained the same.

40. Thus, as per Rule 39 (5), the Head of Office has to see that all entries in

the Service Book are made and attested and the book contains no erasure or overwriting and all corrections are made neatly and properly attested. For the purpose of this adjudication, Sub Rule 5 of Rule 39 is crucial. Thus, as per the Sub-Rule 5 reproduced above, the date of birth has to be recorded on the basis of documentary proof like birth certificate, HSLC certificate, etc. However, the Managing Director is given an option to allow correction if he is satisfied with the same.

41. Before proceeding further, Rule 39(A)(1)(2) and (5) of the SSR, 2024 may be reproduced herein below –

> **39.A(1)** A Service Book shall be maintained for each employee of the Bank from the date of his/her first appointment to the Bank. It shall be kept in the custody of the Head Office.
>
> **(2)** Every step in an employee's official life must be recorded in his/her Service Book, and each entry must be attested by the Head of his/her office or if he/she himself/herself in the Head of an office, by his/her immediate superior. The Head of Office must see that all entries are duly made and attested, and that the Book contains no erasure or overwriting, all corrections being neatly made and proper attested.
>
> **(3)** Every period of suspension from employment and every other interruption of service must be noted, with full details of it duration, in an entry made across the page of the Service Book and must be attested by the head of his/her Office. It is the duty of his/her head to see that such entries are promptly made.
>
> **(4)** It shall be the duty of every Head of Office to initiate action to show the Service Book of the employees under his/her administrative control every year and to obtain their signature therein in token of their having inspected the Service Books. The employees shall ensure before affixing their signature that their services have been duly verified and certified as such.

> **(5)** The date of birth of all employees, on his first appointment, shall be recorded in all documents by Christian era, supported by documentary proof such as Birth Certificate or HSLC Certificate. An employee can only change their date of Birth within 5 years of entering Bank Service. This can be done with the approval of Managing Director/Chief Executive Officer.

42. In a comparative study of Sub Rule 5 of the SSR of 2011 and of 2024, this Court finds that in the 2024 Rules, it has been provided that date of birth can be changed only within the 5 years of entering Service with the approval of the Managing Director/Chief Executive Officer. This was probably incorporated in keeping with the Rule laid down in this regard in Note 6 to FR 56 as mentioned above. However, in the Sub-Rule 5 of Rule 39 of the SSR 2011, this provision of changing date of birth only within the 5 years of entering Bank Service is conspicuously missing.

43. In the instant case, the date of birth of the petitioner was changed on 15-04-2016 and at that time, the governing rules were the SSR 2011. Therefore, the stipulation of the 5-year limit was not there at that time. The provisions of Rule 39(1)(2) and (5) of SSR, 2020 may also be reproduced herein below –

> **39. (1)** A Service Book shall be maintained for each employee of the Bank from the date of his/her first appointment to the Bank. It shall be kept in the custody of the Head Office.
>
> **(2)** Every step in an employee's official life must be recorded in his/her Service Book, and each entry must be attested by the Head of his/her office or if he/she himself/herself is the Head of an office, by his/her immediate superior. The Head of Office must see that all entries are duly made and attested, and that the Book contains no erasure or overwriting, all corrections being neatly made and proper attested.
>
> **(3)** Every period of suspension from employment and every other interruption of

service must be noted, with full details of it duration, in an entry across the page of the Service Book and must be attested by the head of his/her Office. It is the duty of his/her head to see that such entries are promptly made.

(4) It shall be the duty of every Head of Office to initiate action to show the Service Book of the employees under his/her administrative control every year and to obtain their signature therein in token of their having inspected the Service Books. The employees shall ensure before affixing their signature that their services have been duly verified and certified as such.

(5) The date of birth of all employees, on his first appointment, shall be recorded in all documents by Christian era, supported by documentary proof such as Birth Certificate or HSLC Certificate which shall not be altered except in case of clerical errors. The Managing Director/ Chief Executive Officer may, however, allow alteration in exceptional cases if he is satisfied of the correctness.

44. In Rule 5 of the SSR 2020 also, the stipulation regarding the date of birth being changeable only within the 5 years of Service is not there. Thus, it is clear that in keeping with the provision in Note 6 of FR 56, this stipulation of 5 years was incorporated only in the SSR, 2024. Therefore, the contention of the respondents that the correction of the date of birth of the petitioner was invalid as it was done beyond the period of 5 years would not be tenable because at that time, this stipulation in the governing rules – SSR, 2011 was not there. It has been revealed from the materials that though initially the date of birth of the petitioner was recorded as 24-2-1966, but when he sought correction of the same to 24-2-1968, he was asked to get a court order.

45. It has been contended that subsequently he was verbally informed about getting an affidavit from the court and accordingly, he made an affidavit before the learned CJM, Aizawl District Court and submitted the same along annexed

documents. In the said affidavit, he has stated in paragraph 2 that he was born on 24-2-1968 in Lunglei district of Mizoram. He has annexed as Annexure 5 the birth certificate in which his date of birth is mentioned as 24-02-1968. The Baptisma certificate annexed as Annexure -6 indicates his date of birth as 24-02-1968.

46. I have perused the copies of the extracts of the file notings pertaining to the process preceding the change of date of birth of the petitioner. It was stated that the Chief Manager forwarded his request for change of date of birth and it was processed by the DGM (Administration) who accepted the new date of birth to be correct and he was asked to submit a court order and pursuant to that he submitted an affidavit along with documents. And as per the note of 15-4-2016, the DGM stated that he was of the view that the date of birth can be corrected and it was put up before the CEO who approved it on 15-4-2024. The extract of the service book has been also annexed as Annexure- 8 and I find that the date of birth of 24-02-1966 has been struck off and instead, 24-02-1968 has been mentioned and it has been endorsed. The endorsement is to the effect that correction has been done as per the order.

47. The endorsement bears the signature dated 16-04-2016 and with a seal. It is an admitted position that pursuant to this correction of date of birth in the service book, no administrative order was passed by the respondent bank authority regarding the same. Now, the question is whether in the absence of such an administrative order, the correction of date of birth in the service book would be invalid. If an administrative order was essential regarding the validity of the said correction, it was the duty of the bank authority to issue such order and if no such order is passed, the petitioner who was an employee of the bank

cannot be held liable and penalized for the same.

48. Paragraph 27, 28 and 29 of **Sankarlal (Supra)** relied upon by the petitioner side has already been reproduced earlier.

49. One of the most important principles laid down in this decision is that the reasoning on which an employee is not permitted to raise age correction plea at the fag end of his career should also apply to the employer as well. Therefore, it means that the employer also is obligated not to change the date of birth of the petitioner of the employee towards the fag end of his career without a proper process and without bona fide reasons.

50. It was contended on behalf of the respondent that the principles in the apportioned decision turned on its own facts and in support of the contention, the respondent side relied on **Bharat Petroleum** (supra), -paragraph 9, 10 and 11 whereon were earlier reproduced.

51. No doubt that the interpretation of a precedent always has to bear in mind the facts and circumstances in which it was held and the applicability of any decision has to be always seen in the factual matrix of the given case.

52. The paragraph 6 of **C. Lalkima** (Supra) relied upon by the respondent was also reproduced earlier.

53. What follows from the above decision is that if the original date of birth recorded in the service report is sought to be changed by the employer, then only the principles of natural justice would be applicable. It is an admitted position that before the respondent bank authority proposed to retire the petitioner on the basis of the date of birth of 24-02-1968, no process or hearing

was conducted.

54. In this context, a reference may be made to the judgment of the Hon'ble Supreme Court in ***State of Orissa vs. Dr (Miss) Binapani Dei & Ors.***, reported in ***1967 SCC OnLine SC 15***. The relevant paragraph No. 9 may be reproduced herein below –

> "***9.*** *The first respondent held office in the Medical Department of the Orissa Government. She, as holder of that office, had a right to continue in service according to the Rules framed under Article 309 and she could not be removed from office before superannuation except "for good and sufficient reasons". The State was undoubtedly not precluded, merely because of the acceptance of the date of birth of the first respondent in the service register, from holding an enquiry if there existed sufficient grounds for holding such enquiry and for re-fixing her date of birth. But the decision of the State could be based upon the result of an enquiry in manner consonant with the basic concept of justice. An order by the State to the prejudice of a person in derogation of his vested rights may be made only in accordance with the basic rules of justice and fairplay. The deciding authority, it is true, is not in the position of a Judge called upon to decide an action between contesting parties, and strict compliance with the forms of judicial procedure may not be insisted upon. He is however under a duty to give the person against whom an enquiry is held an opportunity to set up his version or defence and an opportunity to correct or to controvert any evidence in the possession of the authority which is sought to be relied upon to his prejudice. For that purpose the person against whom in enquiry is held must be informed of the case he is called upon to meet, and the evidence in support thereof. The rule that a party to whose prejudice an order is intended to be passed is entitled to a hearing applies alike to judicial tribunals and bodies of persons invested with authority to adjudicate upon matters involving civil*

consequences. It is one of the fundamental rules of our constitutional set-up that every citizen is protected against exercise of arbitrary authority by the State or its officers. Duty to act judicially would therefore arise from the very nature of the function intended to be performed : it need not be shown to be super-added. If there is power to decide and determine to the prejudice of a person, duty to act judicially is implicit in the exercise of such power. If the essentials of justice be ignored and an order to the prejudice of a person is made, the order is a nullity. That is a basic concept of the rule of law and importance thereof transcends the significance of a decision in any particular case."

55. This decision was also referred to by this Court in **C. Lalkima** (supra).

56. Thus, it follows from the principle laid down in 1967 itself in **Binapani Dei** (supra) by the Hon'ble Supreme Court that if an order visits a person with civil consequences, then the authority is duty bound to follow the principles of natural justice.

57. Visiting a person with, adverse civil consequences without following the principles of natural justice would be antithesis to reasonableness, non-arbitrariness and equality enshrined in Article 14 of the Constitution of India.

58. In the instant case, if the bank authority goes by the date of birth of 24-02-1966 as proposed, then the petitioner would retire on the last day of February, 2026 and if the date of birth of 24-02-1968 is accepted, he would retire two years later.

59. Retiring the petitioner in February, 2026 instead of February, 2028 would undoubtedly be a significant civil consequence. It is an undisputed position that ever since the correction of the date of birth was made rightly or wrongly on

15-04-2016, there was no process or attempt of the respondent bank authority to undo the same by any order or process. It is a fact that since 15-04-2016 till date, the entry of date of birth of 24-02-1968 remained in the service book of the petitioner.

60. Therefore, if at this stage the respondent bank considers the said entry to be an erroneous one and seeks to rectify the said, with its concomitant civil consequences for the petitioner – the bank authority just cannot be exempted from following the principles of natural justice. The judgment of this Court in **C. Lalkima (supra),** my considered view would not come to the aid of the respondents because in that case it was held that if the original date of birth recorded in service book is sought to be a changed, then principles of natural justice would have to be followed. In the instant case, the original date of birth was corrected by a process in April, 2016 and a corrected entry made in the service book.

61. The date of birth of the petitioner remained as 24-02-1968 in the service book from 2016 to 2025, during which the respondent bank did not take any steps to make any change or correction in the same. Now, by the impugned order dated 03-11-2025, the respondent bank is seeking to revert back to the original date of birth.

62. In the given facts and circumstances and keeping the principles laid down in ***Binapani Dei*** (supra) – I come to the considered opinion that such an exercise of reverting back to the original date of birth of the petitioner cannot be done – without giving him a chance of hearing and complying with the principles of natural justice. The same not having been done, the impugned order dated 03-11-2025 passed by respondent No. 2 suffers from an infirmity

and is required to be interfered with.

63. Accordingly, the impugned order dated 03-11-2025 vide letter No. MCAB/A-67/2025-26/2 passed by respondent No. 2 proposing to take the date of birth of the petitioner as 24-02-1966, thereby retiring him at the end of February, 2026, is hereby set aside and quashed.

64. However, the respondent authorities would be at liberty to carry out an administrative exercise regarding the date of birth of the petitioner by following the principles of natural justice.

65. The instant writ petition stands **allowed** to the extent indicated above and is also disposed of accordingly.

JUDGE

Comparing Assistant