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WA No. 1405 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2023

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No. 1405 of 2022

1. The State of Tamil Nadu
Represented by its Principal Secretary to Government
Higher Education Department
Secretariat, Fort St. George
Chennai – 600 009

2. The Directorate of Collegiate Education
DPI Campus, Nungambakkam
Chennai – 600 006

.. Appellants

Versus

1. V. Rajendran

2. The Commissioner
Directorate of School Education
DPI Campus, College Road
Chennai – 600 006

3. The Director of Government Examinations
DPI Campus, College Road
Chennai – 600 006

.. Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 28.04.2022 made in W.P.No.25783 of 2021.



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For Appellant

: Mr. R. Neelakandan
Additional Advocate General
assisted by Mr. G. Nanmaran,
Special Government Pleader

For Respondents

: Mr. G. Sankaran, Senior Advocate
for Mr. S. Nedunchezian for R1

Mr. Stalin Abhimanyu
Additional Government Pleader for R2 & R3

JUDGMENT

(Judgment of the court was delivered by **R. MAHADEVAN. J**)

The appellants are the respondents 1 and 2 in WP No. 25783 of 2021 filed by the first respondent in this appeal. They have come forward with this intra-court appeal questioning the validity and/or correctness of the order dated 28.04.2022 passed by the learned Judge in the writ petition.

2. The first respondent herein has filed the above said WP No. 25783 of 2021 praying to quash the order dated 11.12.2019 of the fourth respondent therein and consequently direct the respondents in the writ petition to correct his date of birth in S.S.L.C. mark statement as 08.05.1962 as per the report/recommendation forwarded by the third respondent therein in his communication dated 10.09.2019 with all consequential attendant and service benefits.



3. The facts leading to the filing of this writ appeal are recapitulated hereunder:

3.1. The case of the first respondent/writ petitioner is that he was born on 08.05.1962 and studied Standards I to V in Elementary School, Perumalpet, Tharangambadi Taluk from the year 1965 to 1970. In the school records, his date of birth was correctly entered as 08.05.1962. Subsequently, when he joined VI standard in Tharangambadi High School in the year 1970, in the admission register, his date of birth was wrongly entered as 01.03.1958 instead of 08.05.1962. When it was brought to the notice of his father, he made a representation and the date of birth of the first respondent was corrected. On completion of 11th standard (old SSLC) in the year 1976, he was issued with Transfer Certificate and SSLC Book in which his date of birth was recorded as 08.05.1962. The school authorities forwarded the details of the first respondent/petitioner to the Directorate of Government Examination, wherein the date of birth of the first respondent-petitioner was erroneously indicated as 01.03.1958 instead of 08.05.1962 and it was also printed in the SSLC mark sheet. The first respondent/writ petitioner completed his studies from PUC to PhD and got appointed as Assistant Professor on temporary basis in the year 1988. At the time of entering into service, his date of birth was recorded as 08.05.1962 based



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on the SSLC Book.

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3.2. During the course of employment of the first respondent/writ petitioner, on 23.11.2017, a charge memo was issued on the ground that he has secured appointment as Assistant Professor by misquoting his date of birth as 08.05.1962 and hence he was placed under suspension. Though the 2nd respondent/Director of School Education has forwarded a report dated 10.09.2019 stating that all the records have been carefully verified and recommended for correction to the date of birth in SSLC mark statement, the third respondent herein, without considering the same, has passed the order dated 11.12.2019, rejecting the claim made by the petitioner. Challenging the same, the above writ petition was filed.

4. The learned Judge, after hearing the counsel on either side allowed the writ petition on 28.04.2022. For better appreciation, the relevant paragraphs of the order dated 28.04.2022 is reproduced below:

“...14.

... i. *Impugned order dated 11.12.2019 passed by the 4th respondent is quashed.*

ii. *Consequently, 4th respondent is directed to correct the date of*



birth in the petitioners- SSLC mark statement as 08.05.1962 taking note of the Government Orders issued in G.O.Ms. No. 719, Education Department, dated 20.04.1976.

iii.As far as Charge Memo is concerned, since the said charge memo came to be issued disputing the date of birth of the petitioner, which is under challenge in the writ petition and decided on merits, it is for the petitioner to approach the authorities concerned in the light of the decision made in the present writ petition. Upon receipt of the same, the 1st & 2nd respondents shall pass appropriate orders as expeditiously as possible taking note of the observations made in the present writ petition and the Government Orders in G.O.Ms. No. 719, Education Department, dated 20.04.1976 and communicate the same to the petitioner.”

The aforesaid order is under challenge in this writ appeal at the instance of the educational officials.

5. The learned Additional Advocate General appearing for the appellants would submit that based on a complaint given by one of the classmates of the first respondent-writ petitioner by name Gopalan of Triplicane, Chennai, addressed to the Honourable Chief Minister's Grievance Cell, the correctness of the date of birth furnished by the first respondent/writ petitioner



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was examined. According to the learned Additional Advocate General, if the date of birth of the first respondent/writ petitioner is 08.05.1962, as claimed by him, he would not have been permitted to write the public examination in XI Standard during March 1976. For the purpose of writing the public examination, the first respondent-writ petitioner has disclosed his date of birth as 01.03.1958. However, after completing his old S.S.L.C. examination, he claimed that his date of birth was wrongly entered as 01.03.1958 and his correct date of birth is 08.05.1962. After completing his old S.S.L.C. examination, a request was made to correct his date of birth as 08.05.1962 from 01.03.1958 and accordingly, the Headmaster of T.E.L.C. Higher Secondary School, Tharangambadi (Tranquebar) District changed his date of birth. The learned Additional Advocate General invited the attention of this Court to the proceedings dated 11.12.2019 of the Directorate of Government Examinations, College Road, Chennai - 600 006, addressed to the Directorate of School Education, College Road, Chennai - 600 006, which was impugned in the writ petition, wherein it was stated as follows:-

"Vide Letter cited reference (5), papers has been received from your office regarding change in date of birth for Thiru. V. Rajendran, old student of T.E.L.C. School, Tranquebar and presently working as Associate Professor in the Department of Physics in Presidency College, Chennai - 600 006

Last year, the same candidate has requested for change in the date of birth for which reply has been given from your



Department vide letter (2) cited O.Mu.No.053522/M/C3/2018 dated 31.08.2018. If correct information were given by the parent at the time of admission and the school authorities have made mistakes while making the entries, then only change in date of birth can be entertained, otherwise, changes are not encouraged by the Department of School Education. As per Rule 5 of the Tamil Secondary School Leaving Certificate, it is not permitted to change the date of birth after completion of school and after receiving the secondary school leaving certificate.

Further, based on these records the petitioner Thiru. V. Rajendiran's Mark Sheet has been issued with his date of birth as 01.03.1958 and the petitioner's request has been rejected and the same has been informed vide letter cited in ref (4) to the Director of Collegiate Education, Chennai - 600 006. It is patient to point out that earlier the request for change in D.O.B. of the same person has been rejected by the Directorate of School Education, Chennai - 600 006, vide letter dated 01.11.2019.

In the letter dated 22.11.2018 received from the Headmaster T.E.L.C. V. Rajendran has studied from 6th standard to 11 standard in school in 1976 V. Rajendran has completed in 11 standard public exam with register number 124888, as per the records of the school his date of birth is 01.03.1958, the same date of birth has been registered for the SSLC public exam also by the Department of School Education.

Further, when the date of birth of V. Rajendran was verified with the records from the Tabulated Mark Register, it was confirmed that his D.O.B. is 01.03.1958. It is further stated that no required documents and records are available in this office to change the D.O.B. of V. Rajendran as 08.05.1962 on requested by him. Hence, the duplicate copy of the mark sheet is sent back to your office without making any changes."



6. By pointing out the above order, the learned Additional Advocate

General submitted that after several years, the alteration in the date of birth of the first respondent surfaced and it only shows that he exhibited lack of prudence in getting it corrected at the earliest point of time. Further, the belated claim of the first respondent, if entertained, it would be cited as a precedent by others. The order of the learned Judge in permitting alteration of date of birth has resulted in continuing the service of the first respondent beyond the age of superannuation, as per the available date of birth and in that event, the exchequer will be burdened with recurring expenditure and undue financial hardship. For the failure on the part of the first respondent in duly intimating his date of birth at the time of his appointment, he was suspended from service and due enquiry was conducted. At the time of departmental enquiry, the first respondent did not reveal the date of birth of his younger brother, but disclosed only the date of birth of his elder brother. Having regard to all the above, the fourth respondent in the writ petition has rightly refused to alter the date of birth of the first respondent and it is wholly justifiable. In such circumstances, the learned Judge ought not to have interfered with the same, thus, he prayed for allowing of this writ appeal..



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7. Per contra, the learned Senior counsel appearing for the first respondent - writ petitioner submitted that in the school records as well as transfer certificate issued to the first respondent for having studied upto X standard (Old SSLC) and the educational testimonials till Ph.D., disclose the correct date of birth of the first respondent as 08.05.1962. The service register of the first respondent/writ petitioner also reveal the correct date of birth as 08.05.1962. However, the departmental proceedings came to be initiated on the basis of a complaint given by one R. Gopalan of Triplicane, Chennai. The complaint proceeded on the assumption that the first respondent/writ petitioner ought not to have been permitted to write the XI Standard (Old SSLC) examination as per G.O. Ms. No. 1906 dated 22.08.1977 when he did not reach the permissible age. As per the said Government Order, Rule VI (2) of the then S.S.L.C. scheme provides that the name of an eligible student shall be included in the nominal roll for attending the public examination, whose age is not below 15 years. In the complaint, it was complained that the first respondent/writ petitioner, contrary to G.O. Ms. No. 1906 dated 22.08.1977 had written the XI examination (Old SSLC). It is based on the complaint, the first respondent was placed under suspension on 10.11.2017.



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8. According to the learned Senior counsel for the first respondent, in the transfer certificate issued by the Headmaster, TELC, Tharangambadi, the date of birth is registered as 08.05.1962. As per the date of birth, during March 1976, the first respondent had taken the Public Examination under the old SSLC pattern and results were published in April 1976. Thus, G.O. Ms. No.1906 dated 22.08.1977 was issued after the first respondent passed the old SSLC pattern and it cannot be pressed into service. Even in the service register, based on the documents furnished by the first respondent at the time of his appointment, his date of birth was rightly mentioned as 08.05.1962 which was verified by the Establishment Section and the Superintendent concerned. However, the appellants, by placing reliance on the letter dated 31.08.2018 of the Director of School Education assumed that the first respondent attempted to alter the date of birth belatedly. The fact remains that the first respondent only sought to dispel the assumption of the appellants on the basis of the complaint given by Gopalan, his class-mate, by producing documentary evidence. Further, the first respondent did not seek to alter the date of birth belatedly, but only sought certified copies of the documents, which were lost by him. The appellants also failed to take note of the proceedings dated 10.09.2019 in which the second respondent recommended to the third respondent to correct the date of birth,



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while reiterating the correct date of birth of the first respondent as 08.05.1962.

The learned Judge, taking note of all the above, has rightly allowed the writ petition and it calls for no interference by this Court. The learned Senior counsel therefore prayed for dismissal of the writ appeal.

9. We have heard the learned Additional Advocate General for the appellants, the learned Senior counsel for the first respondent as well as the learned Additional Government Pleader for the respondents 2 and 3 and also perused the materials placed for our consideration.

10. At the outset, we find that the date of birth of the first respondent has been recorded as 08.05.1962 in the school records maintained by Perumalpet Panchayat Union School, where he studied Standard I to V. This, according to the first respondent, is his correct date of birth and it had come into existence at the earliest point of time. However, when he joined VI Standard in Tharangambadi High School during the year 1970, his date of birth was erroneously entered as 01.03.1958 and this gave rise to all the disputes. Even this was corrected by the school authorities when it was pointed out by the father of the first respondent. Thus, in the Transfer Certificate issued by the School



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authorities, the date of birth was rightly mentioned as 08.05.1962. Again, while forwarding the details of the student who had written the SSLC (Old pattern) examination, the incorrect date of birth of the first respondent viz., 01.03.1958 was forwarded to the Directorate of Government Examination. This is a mistake on the part of the Tharangambadi School Authorities. This is further clarified from the proceedings of the second respondent dated 10.09.2019 which reads as follows:-

"பார்வையில் காணும் சீர்காழி மாவட்டக் கல்வி அலுவலரின் கடிதத்தில் நாகப்பட்டினம் மாவட்டம், தரங்கம்பாடி, டி.இ.எல்.சி. மேல்நிலைப் பள்ளியின் முன்னால் மாணவர் திரு. வ. இராஜேந்திரன் என்பவரது பழைய 11-ம் வகுப்பு (Old SSLC - 1976) மதிப்பெண் சான்றிதழில் அன்னாரது பிறந்த தேதி 01.03.1958 எனத் தவறாக உள்ளது என்றும் இதனை 08.05.1962 என மாற்றம் செய்து வழங்குமாறும் கோரப்பட்டுள்ளது. பள்ளி தலைமை ஆசிரியர் கடிதம் மற்றும் மாவட்டக் கல்வி அலுவலரின் கடிதத்தின்படியும் குறிப்பிட்டதின் அடிப்படையில் தெரிவிக்கப்பட்டுள்ளது.

அரசு ஆணைப்படி பள்ளிக்கல்வி இயக்குருக்கு வழங்கப்பட்டுள்ள அதிகாரத்தின் அடிப்படையிலும் கோரப்பட்ட திருத்தம் அவசியம் என தொடர்புடைய ஆவணங்கள் அனைத்தும் பள்ளிக்கல்வி இயக்குநரால் நன்கு பரிசீலிக்கப்பட்டு திருத்தம் கோரி பரிந்துரைக்கப்படுகிறது. எனவே கோரப்பட்ட திருத்தங்களை மேற்கொண்டு அசல் கல்விச் சான்றினை விரைவில் அனுப்பி வைத்திட அரசு தேர்வுகள் துறை இயக்குநர் அவர்களை கனிவுடன் கேட்டுக்கொள்கிறேன்.



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11. This communication of the Director of School Education addressed to the Director of Government Examinations would put at rest the dispute surrounding the date of birth of the first respondent. In fact, this letter dated 10.09.2019 goes contrary to the order dated 11.12.2019 of the fourth respondent, which was impugned in the writ petition. Therefore, it is clear that the date of birth of the first respondent is 08.05.1962 which was correctly recorded in the educational testimonials issued to him. The learned Judge, on appreciation of all the above aspects, has rightly allowed the writ petition filed by the first respondent by the order impugned herein, which does not call for any interference by this Court.

12. In the result, the writ appeal fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.M.D., J.) (M.S.Q., J.)
07.03.2023

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