

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2015

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.33678 of 2015
and
M.P.Nos. 1 & 2 of 2015

Senthamarai

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Petitioner

Vs

- 1 The District Collector,
Kanchipuram District, Kanchipuram 631501.
- 2 The Commissioner,
St. Thomas Mount Panchayat Union,
Chitlapakkam (E), Chennai - 64.
- 3 The Block Development Officer,
St. Thomas Mount Panchayat Union,
Chitlapakkam (E), Chennai - 64.
- 4 The Head Master,
St. Thomas Mount Panchayat Union,
Primary school, Nookampalayam,
Chennai - 73.
- 5 Noon Meal Scheme Organiser,
St. Thomas Mount Panchayat Union,
Primary School, Nookampalayam,
Chennai - 73.

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Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent relating to the impugned order in Na. Ka. No.902/14/சு உ தி / ப ஓ 1/dt 17.7.2015 and quash the same and consequently direct the 1st respondent to allow the petitioner to work continuously till 7th February 2017 based on the certificate issued by the School Authority with subsistence allowance.

For Petitioner : Mr.P.Bakiyaraj
For Respondents : Mr.S.Gunasekaran
Nos.1, 4 & 5 Government Advocate
For Respondents : Mr.Era Premnath
Nos.2 & 3.

O R D E R

By consent, the writ petition is taken up for final disposal at the admission stage itself.

2. The prayer in the writ petition is to quash the order of the first respondent vide Na.Ka.No.902 of 2014, dated 17.07.2015 and direct the first respondent to allow the petitioner to work continuously till 07.02.2017.

3. The petitioner would state that she was appointed as a Cook by the proceedings of the Commissioner, St.Thomas Mount Panchayat Union, dated 10.07.2001. She was required to produce the Medical Certificate for age proof and community certificate, etc.,. Accordingly, she produced all the certificates. The date of birth of the petitioner is 07.02.1959. She will attain the age of superannuation only on 07.02.2017. While so, the second respondent /The Commissioner, St.Thomas Mount Panchayat Union informed the petitioner in the year 2005, that the petitioner should produce a new medical certificate for age proof. Accordingly, she obtained a new medical certificate from the Civil Assistant Surgeon, Government Chengalpattu Medical College and Hospital on 06.07.2005 in which, her age has been mentioned as 42 years as on 06.07.2005.

4. The petitioner would further state that the first respondent issued an order of retirement of the petitioner dated 25.06.2014 along with other six members of the different Panchayat Union. Aggrieved over the same, she filed a writ petition in W.P.No.34735 of 2014 praying for re-instatement into service. This court, by an order dated 03.03.2015, set aside the order of the retirement and further, directed the first respondent to consider the case of the petitioner based on the certificate issued by the Headmistress, Chennai Primary School, Chetpet, Chennai. The petitioner was also permitted to produce additional evidence to prove the actual date of birth.

5. It is alleged that the first respondent, without giving an opportunity of hearing to the petitioner to explain her case, passed the impugned order holding that the petitioner has not approached the respondent to alter the date of birth within a period of five years and thereby, violated the specific direction of this Court.

6. The second respondent filed a counter affidavit stating that at the time of joining, the petitioner produced the age certificate obtained from a Government Doctor mentioning her age as 45 years. The second respondent opened the service register of the petitioner on 01.01.2002 stating the date of birth as 24.12.1957. The petitioner accepted the entries made in the service register and without seeking alteration of the date of birth within a period of five years, has filed the earlier writ petition and obtained direction. After superannuating from service and after receiving the terminal benefits, the petitioner filed the present writ petition and prayed for dismissal of the writ petition.

7. The petitioner has mainly challenged the impugned order on the ground that the first respondent, before passing the impugned order, has not considered the certificate issued by the School Authority and also did not give personal hearing to establish her case. Hence, the order was being passed in violation of the principles of natural justice.

8. It is seen from the records that in the earlier writ petition, this Court, after verifying the original service register of the petitioner, observed that there was a correction with respect to the age of the petitioner in the register and the corrected entry was made by a different person in a different ink. The petitioner produced a certificate showing that she was born on 07.02.1959. In view of the above facts, this Court set aside the order of retirement of the petitioner and directed the first respondent to consider the case of the petitioner in the light of the certificate issued by the Headmistress, Chennai Primary School, Chetpet, Chennai.

9. The first respondent rejected the certificate issued by the School Authority only on the ground that it was issued after the retirement of the petitioner from service. Further, the petitioner was not given an opportunity to establish her case that she was born on 07.02.1959. In such view of the matter, this Court is of the opinion that the impugned order is liable to be set aside on the ground of violation of principles of natural justice. Accordingly, the order impugned in the writ petition is set aside and the matter is remanded back to the first respondent to pass orders afresh after giving an opportunity of personal hearing to the petitioner. Such

exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

The writ petition is ordered accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

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+1cc to Mr.P.Bakiyaraj, Advocate SR.67752

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and
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scd(CO)
srg(31/03/2016)