

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.13848 of 2014

and

M.P.No.1 of 2014

V.Selvaradjou

... Petitioner

Vs.

1.The Secretary to the Government,
Local Administration Department,
Chief Secretariat,
Goubert Avenue,
Puducherry.

2.The Director,
Local Administration Department,
Puducherry.

3.The Commissioner,
Oulgaret Municipality,
Jawahar Nagar,
Puducherry.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 22.04.2014 in proceedings No.1-567/Estt.(3)/OM/2012, Puducherry, on the file of the Commissioner, Oulgaret Municipality, Puducherry, the third respondent herein and to quash the same and consequently, to direct the respondents to alter date of birth of the petitioner as 06.08.1958 instead of 31.03.1954 in the service records and extend all service benefits.

For Petitioner : Mr.A.V.Arun

For respondents : Mrs.Reena Iswariya, AGP(P)

ORDER

This writ petition has been filed by the petitioner, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order dated 22.04.2014 in proceedings No.1-567/Estt.(3)/OM/2012, Puducherry, on the file of the Commissioner, Oulgaret Municipality, Puducherry, the

third respondent herein and to quash the same and consequently, to direct the respondents to alter the date of birth of the petitioner as 06.08.1958 instead of 31.03.1954 in the service records and extend all service benefits.

2. In the affidavit filed in support of the writ petition, it has been averred by the petitioner, inter alia, as follows:-

2-1. The petitioner joined the Government service as Sanitary Worker on 09.09.1980 in Oulgaret Commune Panchayat, Puducherry (now the Oulgaret Commune Panchayat has been upgraded as Oulgaret Municipality). When he joined the service, he submitted all the documents and testimonials for the purpose of recording the family particulars and other details in his service book, as per the Rules.

2-2. The petitioner was born on 06.08.1958 at Bahour and the same was registered before the Registrar of Birth and Death, Bahour Commune Panchayat, Bahour, Puducherry, under Section 12 & 17 of the Registration of Birth and Death Act, 1969. The petitioner's father's name is Virappane and his mother's name is Vedhavalli. The petitioner's date of birth was wrongly recorded in the Service Record as 31.03.1954 by the authorities, instead of 06.08.1958, since the wrong date of birth was entered in his SSLC Certificate. After entering into the service, in order to rectify the date of birth, the petitioner has submitted a requisition letter on 09.06.1982 along with an original birth certificate issued by the Commissioner, Bahour Commune Panchayat, which is in consonance with the provisions contained under Note (6) below FR 56, the O.M.No.19017/2/92-Estt(A), dated 19.05.1993 of the Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel and Training, New Delhi. The petitioner's letter dated 09.06.1982 for correction of date of birth submitted to the Office Manager, Oulgaret Commune Panchayat was well within five years from the entry into Government Service as required by the Rules. After submission of the petitioner's letter dated 09.06.1982, there was no communication/order from the authorities concerned. As such, the petitioner was under the bonafide impression that his date of birth was corrected in accordance with the birth certificate issued by the Bahour Commune Panchayat. While so, on 1st July, 2008, the Establishment Section of the Oulgaret Municipality has notified the names of the individuals who were going to retire on superannuation in the year 2014, wherein the petitioner's name was also found place. When the petitioner approached the concerned authority, he was informed that his date of birth was recorded as 31.03.1954. Thereafter, the petitioner made several representations, stating that his date of birth as per the birth certificate issued by the Commissioner, Bahour Commune Panchayat is 06.08.1958 and accordingly, his date of birth has to be corrected as 06.08.1958 instead of 31.03.1954 in the service register. But, the 3rd respondent has passed the impugned order, 22.04.2014 rejecting the claim of the petitioner.

Challenging the same, the petitioner has come forward with the present writ petition.

3. When the matter is taken up for consideration, the learned counsel for the petitioner has made his submissions by adverting to the averments made in the affidavit.

4. The learned Additional Government Pleader, by filing a detailed counter, opposed the prayer of the petitioner.

5. It is submitted by the learned counsel for the petitioner that within a period of five years from the date of joining the service, the petitioner made his representation dated 09.06.1982, seeking to make correct in the service records in respect of his date of birth. As there was no reply/communication from the respondent for the said representation of the petitioner, the petitioner was under the bonafide impression that his request for correction in respect his date of birth in the service records was accepted by the respondent. But, only in the year 2008, when the respondent issued a notification mentioning the list of the employees, who were going to retire on superannuation in the year 2014, the petitioner came to know that his request for correction in the date of birth was not considered by the respondent. Thereafter, the petitioner made several representation to the respondent to make correction in his service register with regard to his date of birth. But, the respondent has rejected the claim of the petitioner.

6. It is the specific submission of the learned counsel for the petitioner that when the petitioner made his request for making correction in the service register with regard to his date of birth within a period of statutory period of five years, the respondent ought to have considered the request of the petitioner favourably. But, from a perusal of the materials available on record, I find that absolutely no document has been produced by the petitioner to show that he had given a representation on 09.06.1982 to the respondent i.e., within a period of five years from the date of joining the service. Even assuming for a moment that he has given representation within five years, it is clear that he has not followed up the same and only at the fag-end of his career, he again made a representation for correction of date of birth, i.e., after a period of 27 years of service. Under such circumstances, this Court cannot entertain the prayer sought for by the petitioner. Moreover, the petitioner had attained the age of superannuation on 31.03.2014 itself. Therefore, now, nothing survives in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

ssv

To

- 1.The Secretary to the Government,
Local Administration Department,
Chief Secretariat,
Goubert Avenue,
Puducherry.
- 2.The Director,
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- 3.The Commissioner,
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1 cc to Mr.A.V. Arun, Advocate, Sr. 54965

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