

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No..36992 of 2016

V.Manivannan

.. Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Govt.,
Home (Police-17) Department,
Fort St.George, Chennai-600 009.
 2. The Director,
Tamil Nadu Fire and Rescue Services,
Egmore, Chennai-600 008.
 3. The Joint Director (Training Rescue Services)
State Training Centre,
Tamil Nadu Fire and Rescue Services,
Chennai-600 047.
- .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to consider the representation of the petitioner, dated 18.07.2016 forthwith and correct the petitioner's Date of Birth as 03.06.1960 instead of 07.04.1959 in the Service Records of the petitioner.

For Petitioner : Mrs.AL.Ganthimathi
For Respondents : Mr.K.Dhananjayan, Spl.G.P.

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus to consider the representation of the petitioner, dated 18.07.2016 forthwith and correct the petitioner's Date of Birth as 03.06.1960 instead of 07.04.1959 in the Service Records of the petitioner.

2. It is the case of the petitioner that he joined service as Station Fire Officer in 1987 in the respondent-Fire Services Department by direct recruitment through Tamil Nadu Public Service Commission, later promoted as Assistant Divisional Officer and at present working as District Officer in the State Training Centre, Tambaram. When the petitioner joined in the School, his father gave his Date of Birth as 07.04.1959, which continued in all his records. His Service Records also show his Date of Birth as 07.04.1959 when he joined service in 1987. The petitioner's father had five male children including the petitioner and three female children and he is the fifth male child in family. Hence, it is the case of the petitioner that his father would have given the petitioner's Date of Birth by rough memory. There did not arise any doubt at that time and hence, he did not take any steps to correct his Date of Birth. After the death of the petitioner's father, the properties devolved upon his children, and the house where his parents lived, were given to him and his younger brother. The petitioner's share of property was duly informed by him to the Department. When the petitioner and his younger brother decided to renovate the house, they cleaned up the old materials and at that time, they found some notes with dates, which were noted down by their parents with regard to the Date of Birth of all the children, after which, the petitioner realised that the note showed the actual Date of Birth of the child-Manivannan (petitioner) as 03.06.1960, which was noted based on his other siblings' Date of Birth.

3. It is stated by the petitioner that as the petitioner came to know about the correct Date of Birth only recently, i.e. in June 2016, he could not apply for correction of the same within 5 years as per the Rules in force. Hence, the petitioner gave a representation, dated 18.07.2016 to the respondents by enclosing the Birth Certificate, by clearly indicating the facts and requested for correction of Date of Birth in his Service Records. Though the said representation was received and forwarded by the third respondent to the second respondent, the same is pending consideration before the respondents. He is due to retire by 30.04.2017. Since the said representation was pending, the petitioner earlier filed W.P.No.26683 of 2016 for consideration of his representation, dated 18.07.2016 and to correct his Date of Birth as 03.06.1960 instead of 07.04.1959 in his Service Records. The petitioner withdrew the said Writ Petition on 09.08.2016 on the premise that the authorities may consider his representation and reply. It is the further case of the petitioner that till date, the said representation has not been considered and hence, the petitioner has filed this Writ Petition for the relief stated supra.

4. Heard both sides and perused the materials available on record.

5. On a perusal of the affidavit filed in support of the Writ Petition, I find that absolutely there is no merit in this Writ Petition. The petitioner ought to have made such a representation within a period of five years from the date of joining his service by adducing acceptable legal evidence. The petitioner cannot now seek for correction of his Date of Birth at this distant point of time, that too at the fag end of his retirement. Since the petitioner had not produced any reliable material to substantiate his claim for correction of Date of Birth, his claim for correction of Date of Birth cannot be countenanced. The averments made in the affidavit seem to be an imaginary. Hence, this Court cannot issue such direction as prayed for by the petitioner based on such averments. The petitioner has approached this Court not only with unreasonable delay, but also with unreliable material. Hence, the prayer of the petitioner is not sustainable in law and on facts.

6. The Writ Petition is devoid of merits, and hence, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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Copy to

1. Secretary to Government, Home (Police-17) Department,
Fort St.George, Chennai-600 009.
2. The Director, Tamil Nadu Fire and Rescue Services,
Egmore, Chennai-600 008.
3. The Joint Director (Training Rescue Services)
State Training Centre,
Tamil Nadu Fire and Rescue Services,
Chennai-600 047.

+ 1cc to Mr.AL.Gandhimathi, Advocate sr.60648
+ 1 cc to Government Pleader Sr.60983

W.P.No.36992 of 2016

SCD(CO)

• EU 28.11.16