

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.40450 of 2016

P.Neethimani

.. Petitioner

Vs.

1. The Registrar of Co-operative Societies,
Chennai-600 010.

2. The Joint Registrar of Co-operative Societies,
Ariyalur.

3. The Deputy Registrar of Co-operative Societies,
Ariyalur.

4. The Commissioner of Revenue Administration,
Chennai-600 005.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to forward the petitioner's application with enclosures to the fourth respondent for conducting an enquiry pertaining to the petitioner's claim for alteration of his date of birth from 15.08.1959 to 26.03.1961 in his Service Register and upon consideration of the report of the fourth respondent, to pass appropriate orders to alter the petitioner's date of birth from 15.08.1959 to 26.03.1961 in the Service Register, all within a limited time frame as deem fit to this Court.

For Petitioner : Mr.M.Ravi
For Respondents : Ms.T.Girija, Govt. Advocate

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to forward the petitioner's application with enclosures to the fourth respondent for conducting an enquiry pertaining to the petitioner's claim for alteration of his date of birth from

15.08.1959 to 26.03.1961 in his Service Register and upon consideration of the report of the fourth respondent, to pass appropriate orders to alter the petitioner's date of birth from 15.08.1959 to 26.03.1961 in the Service Register, all within a limited time frame as deem fit to this Court.

2. In the affidavit filed in support of the Writ Petition, it is stated by the petitioner that he was appointed as Junior Inspector of Co-operative Societies on 06.12.1985 temporarily and was ousted from service on 09.10.1990 for want of vacancy. Subsequently, by virtue of the order passed by the Tamil Nadu Administrative Tribunal regarding his selection to the post of Junior Inspector of Co-operative Societies, he was temporarily appointed to the said post under Rule 10(a)(i) of the Tamil Nadu State and Subordinate Services Rules, by proceedings of the third respondent, dated 12.04.1992. The petitioner joined the said post on 20.04.1992 and his probation was declared to have been completed as on 24.04.1995 by the proceedings of the third respondent, dated 14.06.1995. His services in the post of Junior Inspector of Co-operative Societies was also regularised with effect from 20.04.1992 and he was later promoted as Senior Inspector of Co-operative Societies and then as Sub-Registrar and now, the petitioner is serving as Co-operative Sub-Registrar in the Office of the Deputy Registrar of Co-operative Societies, Ariyalur.

3. It is further stated by the petitioner that his actual date of birth is 26.03.1961 and the wrong entry of the same was made as 15.08.1959 in his School records by his illiterate father, which was entered in the Service Register during his entry into service. He was born on 26.03.1961 to his parents Thiru.P.Periyathambi and Tmt.Chinnakanni of Hasthinapuram Village, Ariyalur Taluk, Trichy District, who got married only on 13.11.1959. Hence, he submitted his application dated 23.02.1996 along with the required particulars and documents to the first respondent herein for entering his correct date of birth in the Service Register. It is further stated by the petitioner that the said application was filed within the statutory limitation period of five years from the date of his entry into service, while he was serving as Senior Inspector of Co-operative Societies in the office of the Registrar of Co-operative Societies, Chennai, during 1996. Along with the said application, he enclosed his SSLC Book first page, the statements of two credible persons and his horoscope.

4. It is the further case of the petitioner that the Registrar of Co-operative Societies, Chennai, by proceedings in Pro.Na.Ka.No.28278/96/O.Na.2, dated 29.02.1996, 28.06.1996, 30.08.1996 and 16.04.1997 called for certain additional particulars, such as marriage invitation of his father. The petitioner obtained the extract of Marriage Register from

Sri.Alanduraiyar Kothandaramasami Temple, Ariyalur, relating to his father's marriage which was solemnised on 13.11.1959. The third respondent, by proceedings in Na.Ka.No.1260/2015 Pa.Tho, dated 24.06.2015, directed the petitioner to produce all relevant original Certificates and documents issued by the Government along with proposals for change of the petitioner's date of birth from 15.08.1959 to 26.03.1961.

5. The petitioner once again submitted detailed representation, dated 16.07.2015 along with all authenticated documents to the respondents. The petitioner was instructed to furnish the original Birth Certificate in proof of his correct date of birth. The Office of the District Registrar, Ariyalur had returned the petitioner's application by declaring that the Birth Register pertaining to Hasthinapuram Village for the year 1961, has not been received in the office, and hence, it is not possible to furnish the petitioner's Date of Birth Certificate. He made further detailed representation on 04.10.2016 to the respondents. It is the petitioner's grievance that his date of retirement falls on 31.08.2017 and that his representations have not yet been considered. Since the said representations have not yet been considered, the petitioner has filed this Writ Petition for the above relief.

6. When the Writ Petition is taken up for consideration, learned counsel for the petitioner submitted that his application for correction of date of birth from 15.08.1959 to 26.03.1961 in his Service Register, was made within five years from the date of his entry into service. Learned counsel further contended that as per Rule 49 of the Tamil Nadu State and Subordinate Services Rules, his application has to be considered for correction of his date of birth. The departmental authorities ought to have forwarded the application of the petitioner requesting for change of date of birth, to the fourth respondent- Commissioner of Revenue Administration, Chennai, for enquiry and to pass appropriate orders. Moreover, the petitioner's superannuation falls on 31.08.2017.

7. In view of the foregoing facts, without going into the merits of the case, this Court directs the petitioner to give fresh representation ventilating his grievance with regard to his change of date of birth to the first and second respondents with necessary enclosures, along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order, and on receipt of the said representation, the first and second respondents are directed to forward the said representation to the fourth respondent, who shall conduct necessary enquiry and give an opportunity of hearing to the petitioner to put forth his grievance pertaining to the alteration of his date of birth from 15.08.1959 to 26.03.1961 in his Service Register and consider the said representation, on

merits and in accordance with law, and pass appropriate orders with regard to the said alteration of the date of birth of the petitioner, within a period of six weeks from the date of receipt of such representation. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the fourth respondent to decide the same at the time of disposing of such representation.

8. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

cs

Copy to

1. The Registrar of Co-operative Societies,
Chennai-600 010.
2. The Joint Registrar of Co-operative Societies,
Ariyalur.
3. The Deputy Registrar of Co-operative Societies,
Ariyalur.
4. The Commissioner of Revenue Administration,
Chennai-600 005.

+ 1 cc to Mr.M. Ravi, Advocate SR.66865

सत्यमेव जयते

W.P.No.40450 of 2016

SKV(CO)
EU 23.11.16

WEB COPY