

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:27.03.2017

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THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.6535 of 2017

P.Sundaramoorthi

.. Petitioner

/versus/

1.The District Collector,
Villupuram District,
Villupuram.

2.The Commissioner for Revenue Administration,
Chepauk, Chennai 600 005.

3.The Personal Assistant to the District Collector,
Villupuram District, Villupuram.

4.The Block Development Officer,
Vaanur Panchayat Union,
Villupuram District,
Villupuram.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records bearing e/f/gm6/2397/2016 dated 30.12.2016 passed by the first respondent herein and quash the same and further direct the respondents to alter the date of birth of the petitioner from 01.01.1957 to 04.11.1958 in the service register in accordance with Rule 49(a) of Tamil Nadu State and Subordinate Service Rules.

For Petitioner :Mr.V.Suthakar

For Respondents:Mr.K.Venkataramani, A.A.G.

Assisted by Mr.V.Jayaprakash Narayanan
Spl.G.P. for respondents 1 to 3
Mr.V.S.Ramesh, G.A. for R4

O R D E R

The petitioner has come to this Court challenging the rejection of his request for alteration of date of birth viz., 01.01.1957 as 04.11.1958 in the service register, on the ground that the petitioner had refused to furnish reliable educational certificate showing his actual date of birth to the respondents.

2. The learned counsel appearing for the petitioner would submit that the petitioner was appointed as Nominal Muster Roll employee namely, daily wage employee on 16.07.1982 at Vaanur Panchayat Union. After his continuous performance from 1982, he was appointed as Office Assistant on 23.08.2012, which should be taken as the first date of entry into service. Even as per the appointment order, the petitioner has become a member of the Department only from the date of his appointment as Office Assistant with effect from 23.08.2012. Immediately, after finding some discrepancies in his date of birth, they have collected all the sufficient documents. The petitioner, within five years from the date of entry into the service has submitted detailed representation on 06.04.2016 to the respondents requesting them for alteration of his date of birth. But, without giving any opportunity to the petitioner to produce other relevant or reliable documents, the first respondent has arbitrarily rejected the petitioner's request on 30.12.2016. Therefore, the findings and conclusions reached by the respondents are completely erroneous and the same are to be interfered with.

3. On the other hand, the learned Government Advocate appearing for the 4th respondent would submit that as per Section 59(3) of the Tamil Nadu Government Servants (Condition of Service) Act, 2016, the petitioner should have submitted his application seeking alteration of his date of birth with all the school certificates showing the original date of birth. Since the relevant certificates have not been produced by the petitioner, the impugned order came to be passed, since the school certificate produced by the petitioner would show that the petitioner appears to have been born on 01.01.1957.

4. A close reading of Section 59(1) of the Tamil Nadu Government Servants (Condition of Service) Act, 2016 makes it clear that the petitioner has to make an application to the appointing authority claiming that his date of birth is different from the date of entry in the service register and stating the evidence on which he relies and explaining how the mistake occurred and then, the application shall be forwarded

for report after investigation by the officer not below the rank of Deputy Collector and, on receipt of the report, the appointing authority shall decide the matter whether the alteration of date of birth may be permitted or the application may be rejected.

5. Without going into the merits of the matter, the impugned order is set aside and the District Collector, Villupuram is directed to re-consider the matter on the basis of the available documents including certificate of the petitioner preferably within a period of four weeks from the date of receipt of a copy of this order.

6. It is submitted that although the very same school certificate is placed before the Collector, the same was not forwarded to the Commissioner of Revenue Administration, as a result he has passed the impugned order. After completing the aforementioned exercise with all available records, the respondents will do the needful by forwarding the same to the Commissioner of Revenue Administration.

7. With the above observations, the writ petition is allowed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Villupuram District,
Villupuram.

2.The Commissioner for Revenue Administration,
Chepauk, Chennai 600 005.

3.The Personal Assistant to the District Collector,
Villupuram District, Villupuram.

4.The Block Development Officer,
Vaanur Panchayat Union,
Villupuram District,
Villupuram.

+1cc to the Government Pleader Sr.19561
+1cc to Mr.V.Suthakar, Advocate Sr.19252

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srg 12/05/2017



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