

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2017

CORAM:

THE HON'BLE MR. JUSTICE HULUVADI G. RAMESH

AND

THE HON'BLE MR. JUSTICE A.D. JAGADISH CHANDIRA

W.A. No.610 of 2017

S.R. Marimuthu

Appellant

vs.

1 The Commissioner of Revenue Administration
Chepauk
Chennai 600 005

2 The Director of Rural Development
& Panchayat Raj
Chennai 600 015

3 The District Collector
Ariyalur District
Ariyalur

Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 11.06.2014 passed in W.P. No.14945 of 2014. filed Under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing respondents to consider the claim of the petitioner for alteration of date of birth as 04/06/1961, instead of the existing date viz., 04/06/1956.

For appellant : Mr. R.S. Krishnaswamy

For respondents : Mr. P.S. Sivashanmugasundaram
Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by HULUVADI G. RAMESH, J.)

This intra Court appeal has been filed impugning the order dated 11.06.2014 passed by a learned Single Judge in W.P. No.14945 of 2014.

2 Heard the learned counsel on either side.

3 To avoid prolixity, the parties are referred to as per their rank in the instant intra Court appeal.

4.1 The appellant entered into Government service on 06.09.1993 furnishing his date of birth as 04.06.1956. However, claiming that his actual date of birth is only 04.06.1961 and not 04.06.1956, as furnished by him at the time of his joining, he addressed a representation to the authorities on 10.02.1994 seeking alteration of his date of birth accordingly, which was turned down by the third respondent on 17.02.1994 on the ground that it was not fortified by any document such as birth certificate. Subsequent thereto, the appellant obtained birth certificate from the Registrar of Births and Deaths and followed it up with an application dated 19.01.2009 before the authorities once again seeking alteration of his date of birth. Inasmuch as his application dated 19.01.2009 remained unconsidered, the appellant preferred the writ petition seeking a writ of mandamus directing the respondents to consider his claim.

4.2 The learned Single Judge, finding that the appellant's claim is beyond the period of five years, which is the outer limit as prescribed in the Tamil Nadu State and Subordinate Service Rules and that the appellant has slept over his claim like Rip Van Winkle for 21 long years, declined to issue a writ of mandamus as sought by him, vide order dated 11.06.2014, challenging which, this intra Court appeal has been preferred by the appellant.

5 The main plank of contention put forth before this Court by the learned counsel for the appellant is that the order dated 17.02.1994 passed by the third respondent, is not an order of rejection at all and hence, the finding of the learned Single Judge that the appellant's application has been rejected, is erroneous.

6 The aforesaid ground does not cut ice with us, inasmuch as, even assuming but without conceding that the order dated 17.02.1994 is not an order of rejection and that in the said order, the third respondent has merely stated that the appellant's proposal could not be submitted since his application was not accompanied by birth certificate, the remedy left open to the appellant was that he should have obtained birth certificate and resubmitted his application in its proper form within five years from the date of his joining. Instead, incontrovertibly, at his sweet will and pleasure, the appellant had got his birth certificate issued only on 15.11.2008, i.e., over 14 years aftermath the order dated 17.02.1994 passed by the third respondent and followed it up with his second

application on 19.01.2009, which cannot be countenanced. Had the appellant been really interested in his claim, instead of being lackadaisical for such a long number of years, he should have pursued his remedy within the time limit prescribed in this regard under the Rules. The appellant, having failed to pursue his remedy within the period stipulated under the Rules, in the considered opinion of this Court, does not deserve the grant of relief sought by him.

7 In view of the foregoing discussion, we find no reason whatsoever to interfere with the well considered order passed by the learned Single Judge.

As a sequitur, this intra Court appeal fails and is accordingly dismissed. Costs made easy.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

cad

To

- 1 The Commissioner of Revenue Administration
Chepauk
Chennai 600 005
- 2 The Director of Rural Development
& Panchayat Raj
Chennai 600 015
- 3 The District Collector
Ariyalur District
Ariyalur

+lcc to Government Pleader in sr.no.45928
+lcc to M/s.S.Senthil, Advocate in sr.no.45981

SAI (CO)
NR 20/07/2017

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