

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.3551 of 2014

Dr.M.Sargunavathy

..Petitioner

Vs.

1.The Registrar

University of Madras
Centenary Buildings
Chepauk, Chennai 600 005.

2.The Director

Institute of Distance Education
University of Madras
Centenary Buildings
Chepauk, Chennai 600 005.

.. Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the Respondents to consider the claim of the petitioner for alteration of Date of Birth in the Service Records of the petitioner, based on the Birth Certificate issued by the Revenue Department dated 07.08.2002, in accordance with the provisions of University Statute with consequential benefits, within a time frame to be fixed by this Court.

For Petitioner .. Mr.G.Sankaran

For Respondents ..Mr.R.Gopinath

O R D E R

The relief sought for in this writ petition is to direct the respondents to consider the claim of the writ petitioner for alteration of date of birth in the Service Records of the writ petitioner based on the Birth Certificate issued by the Revenue Department on 07.08.2002, in accordance with the provisions of the University Statute, with consequential benefits.

2.The learned counsel for the writ petitioner made a submission that the writ petitioner is qualified with M.A., B.Ed., Ph.D., and Post Doctorate in Tamil. The writ petitioner

was appointed as Lecturer in the Department of Tamil, in the Institute of Correspondence Education, now named as Institute of Distance Education in University of Madras, as per the order of the first respondent dated 21.01.2000. Subsequently, the petitioner was promoted to the post of Senior Lecturer in Career Advancement Scheme by following the UGC Guidelines and the Government Orders with effect from 21.12.2004. Further, the petitioner was promoted to the post of Associate Professor on 21.12.2012.

3.The writ petitioner claims that she is the fourth child to her parents and her date of birth is 23.09.1961. However, at the time of getting admission in the School, the date of birth of the writ petitioner was wrongly given by her parents as 09.06.1958, instead of 23.09.1961. In view of the erroneous entry made by the School Authorities, the writ petitioner has taken steps to alter her date of birth, after joined in the post of Lecturer.

4.The writ petitioner claims that she was appointed as Lecturer in Tamil in University of Madras on 21.12.2000, and the Birth Certificate was issued by the Revenue Department was on 07.08.2002, and thereafter, the writ petitioner was promoted to the post of Senior Lecturer by proceedings dated 13.12.2005. However, the petitioner made a representation to the respondent only on 16.3.2009. The said representation dated 16.3.2009, has been referred by the Registrar of University of Madras in his proceedings dated 31.03.2009. Thus, this Court has to consider the fact that the representation seeking alteration of date of birth was submitted by the writ petitioner only on 16.3.2009, after a lapse of about nine years from the date of appointment of the writ petitioner, as Lecturer on 21.12.2000.

5.As per Rules, an Application seeking alteration of date of birth can be entertained within a period of five years from the date of appointment. In the case on hand, the writ petitioner submitted an Application only on 16.3.2009, after a lapse of about nine years. Thus, the Application deserves to be rejected in limine by the authorities. This apart, the scope of alteration of date of birth in respect of the employees was considered by this Court in W.P.No.7988 of 2017, dated 12.7.2017. In Paragraph No.13 of the said order, it has been stated as follows:

"13.Parliament enacted the Registration of Births and Deaths Act, 1969 with a view to maintain accurate countrywide registration data for purposes of national planning, organizing public health and medical activities and various other socio economic welfare measures.

(i) Under Section 3(1), the Central Government has been authorized to appoint a person as Registrar General of India. Under Section 4, the respective State Governments are entitled to appoint a Chief Registrar for every State. Under Section 6, the State Government was empowered to appoint a District Registrar for each Revenue District and such number of Additional District Registrars as it thinks fit, who shall also discharge such functions as District Registrars subject to the general control and direction of the District Registrar. Under Section 7 of the Act, the State Government may appoint a Registrar for each local area comprising the area within the jurisdiction of a municipality, panchayat or other local authority or any other area or a combination of any two or more of them.

(ii) Under Sub-Section (2) of Section 7, every Registrar shall, without fee or reward, enter in the register maintained for that purpose, all information given to him under Section 8 or Section 9 and shall also take steps to inform himself carefully of every birth and of every death, which takes place in his jurisdiction and to ascertain and register the particulars in the register. Under Section 8(1), it shall be the duty of the persons specified therein to give or cause to be given either orally or in writing, within such time as may be prescribed, information to the Registrar of the several particulars required to be entered in the forms prescribed by the State Government under Sub-Section (1) of Section 16.

(iii) Under Section 10, duty has been cast on certain persons specified therein to notify compulsorily births and deaths. Under Section 12, the extracts of registration entries are liable to be furnished to the person furnishing information under Section 8 or Section 9.

(iv) Under Section 13(1), any information relating to any birth or death tendered to the Registrar after the expiry of the period specified there for, within 30 days of its occurrence, shall be registered on payment of such late fee as may be prescribed. Sub-Section (2) of Section 13 makes it obligatory that any delayed information relating to birth or death furnished to the Registrar, after 30 days but within one year of its occurrence, shall be registered only with the written permission of the Prescribed Authority and on payment of prescribed fee and production of an

affidavit made before a Notary Public or any other officer authorized in this behalf by the State Government. Sub-Section (3) of Section 13 further makes it clear that any birth or death, which has not been registered within one year of its occurrence, shall be registered only on an order made by a Magistrate of the First Class or a Presidency Magistrate after verifying the correctness of the birth or death and on payment of the prescribed fee. Thus, under Sub-Section (3) of Section 13, if any information relating to the birth of a person is to be recorded after the expiry of one year from the date of occurrence of such birth, such information shall be registered only based upon an order made by a Magistrate."

6. In the case on hand, the writ petitioner signed the first page of the SSLC Book which was issued on 17.5.1976. As per the SSLC Book, the date of birth entered was 09.06.1958. Thereafter, the writ petitioner has completed B.A., M.A., B.Ed., Ph.D., etc. In all the records, in reference to the Degrees possessed by the writ petitioner, the date of birth was entered as 09.6.1958. After entering into the Service as Lecturer and after a lapse of nine years from the date of appointment, for the first time, the writ petitioner submitted her Application seeking alteration of date of birth based on the Birth Certificate issued by the Regional Deputy Tahsildar, Arakkonam on 07.08.2002 and the same was found in page No.5 of the typed set of papers filed along with this Writ Petition. As per the said Certificate of Birth, the date of birth of the writ petitioner was entered as 23.09.1961, and that the said certificate was issued under section 12 of the Registration of Birth and Death Act, 1969.

7. Though the said certificate was issued on 07.08.2002, the writ petitioner submitted an Application seeking alteration of date of birth only in the year 2009. The necessity for obtaining such a certificate after a lapse of 31 years from the date of her birth is unknown and unexplained by the petitioner in this writ petition. The manner in which the Certificate of Birth was issued by the Regional Deputy Tahsildar, Arakkonam, is also unknown to this Court.

8. The writ petitioner appeared for the S.S.L.C. Examination conducted by the Board of Secondary Grade Education, Tamil Nadu, and after having passed the said examination, she has been issued a Certificate recording therein her date of birth as 09.06.1958. The said certificate bears the signature of the writ petitioner. She also appeared for the Higher Secondary Examination and in that Pass Certificate also her date of birth has been recorded as 09.06.1958, and also bears her

signature. Though the writ petitioner was a young person at the time when she passed the S.S.L.C. and Higher Secondary Examinations, but, nonetheless, it must be inferred that it is within her knowledge that the Certificates bear her date of birth as 09.06.1958. So far, no attempt appears to have been made to get the date of birth entered in the above referred two certificates altered. Consequently, the scholastic record of the writ petitioner still reflects the date of birth of the writ petitioner as 09.06.1958.

9. Under these circumstances, the certificate issued by the Regional Deputy Tahsildar, Arakonnam can be of no avail to the writ petitioner and further seeking alteration of date of birth itself was submitted after a lapse of nine years from the date of birth. Thus, this Court is not inclined to consider the case of the writ petition on merits and there is no further adjudication on merits in this regard is required.

10. Accordingly, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Registrar
University of Madras
Centenary Buildings,
Chepauk,
Chennai-600 005

2. The Director,
Institute of Distance Education
University of Madras
Centenary Buildings,
Chepauk Chennai-5

+1 cc to M/s.R.Gopinath Advocate sr 18038

+1 cc to M/s.G.Sankaran Advocate sr 77556

W.P.No. 3551 of 2014

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