

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 27.06.2017  
CORAM:  
THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN  
and  
THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

W.A.No.1125 of 2013 &  
M.P.No.1/2013

Vasantha

... Appellant

Vs

1.The Commissioner  
Panchayat Union  
Thiruvannamalai District.

2.Asst.Elementary Educational Officer  
Thiruvannamalai District.

...Respondents

Writ Appeal filed under Clause 15 of the Letters Patent  
against the order of this Court in W.P.No17367 of 2009 dated  
13.07.2011.

WP.No.17367 of 2009:Petition filed under Article 226 of the  
Constitution of India, praying this Hon'ble Court to issue a  
Writ of Certiorarified Mandamus to call for the records of the  
second respondent in Na.Ka.No.1932/AA1/2009 dt.31.7.2009 and in  
Na.Ka.No.1466/AA2/2009 dt.31.7.2009 and to quash the same and  
direct the respondents to reinstate the petitioner with effect  
from 1.7.2009 with continuity of service with resultant benefits.

For Appellant : Ms.G.Sumitra  
For Respondents : Ms.A.Srijayanthi

[for R1]

Mr. K.Dhananjayan,

Special Government Pleader [for R2]

J U D G M E N T

K.K.SASIDHARAN, J.

The appellant joined service in the Panchayat Union  
Elementary School at Su.Kambappattu, Thiruvannamalai District as  
Conductress (Ayah). Her date of birth was initially recorded as

03 January 1956. According to the appellant, without her knowledge, it was corrected as 25 July 1949. The request to delete the said entry and restore the old entry was rejected. The appellant, therefore, filed the writ petition. The writ petition was dismissed by the learned Single Judge, by order dated 13 July 2011. The order is under challenge in this intra court appeal.

2. The learned counsel for the appellant contended that the appellant was not responsible for making the entry as 25 July 1949. The appellant declared her date of birth correctly, pursuant to the Certificate issued by the School indicating her date of birth as 03 January 1956. However, without any basis, it was corrected as 25 July 1949 and in spite of the retirement, she is not given the retirement benefits.

3. We have also heard the learned counsel for the respondents.

4. The Service Register was examined by the employer. It was found that there was correction with regard to the date of birth. The appellant was subjected to medical examination. The Medical Officer's report shows that she was born in the year 1949. The authorities, therefore, recorded the date of birth as 25 July 1949. The appellant made a claim on the strength of the School Certificate indicating that she was born on 03 January 1956. There is no Birth Certificate before this Court to arrive at a conclusion as to whether the appellant was born on 03 January 1956. In the absence of any such record, the Certificate given by the Medical Officer has to be believed. There is no question of placing reliance on the School Certificate, as the entry was made pursuant to the declaration given by the appellant. The writ petition was dismissed by the learned trial Judge with an observation that action was not taken to correct the date of birth immediately after entering the service or within five years. According to the appellant, she was not responsible for the delay in question. Since there is no acceptable evidence to show that the appellant was born on 03 January 1956, we are of the view that the date of birth of the appellant should be taken as 25 July 1949.

5. The appellant on attaining the age of superannuation retired from service. It was so because, the date of birth was taken as 25 July 1949. In view of her retirement, we direct the respondents to calculate the retirement benefits and pay the same to the appellant within a period of eight weeks from the date of receipt of a copy of this judgment.

The intra court appeal is disposed of with the above direction. No costs. Connected M.P. is closed.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gms  
To

1.The Commissioner  
Panchayat Union  
Thiruvannamalai District.

2.Asst.Elementary Educational Officer  
Thiruvannamalai District.

+1 cc to the Government Pleader sr 44772/17

+1 cc to M/s.G.Sumitra Advocate sr 44481 dt 07/08/2017

W.A.No.1125 of 2013

aa02/08/2017

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