

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.07.2017
CORAM
THE HONOURABLE MR. JUSTICE V.PARTHIBAN
W.P.No.8349 of 2013

S.Jeyamary

.. Petitioner

Vs.

- 1.The Commissioner for Agriculture Production,
and Secretary to Government,
Agriculture Department, Fort St.George,
Chennai 600 009.
- 2.The Commissioner,
Horticulture and Hill Crops Department,
O/o.Agriculture Department, III Floor,
Chepauk, Chennai 600 005.
- 3.The Joint Director of Horticulture
Post Box No.72, Rose Garden,
Vijaya Nagaram,
Udhagamandalam.
- 4.The Assistant Director of Horticulture,
Gudalore, Nilgiris District.
- 5.The Manager,
Government Horticulture Farm,
Devala, Nilgiris District.
- 6.Tamilmani

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of Certiorarified Mandamus to call for the records comprised in Se.Mu.Ka.No.F79/08, dated 31.12.2009 on the file of the 4th respondent, quash the same as so far as the petitioner is concerned and consequently, allow the petitioner to continue as worker in the 5th respondent Farm till 30.04.2018 as per the age proof shown in the Passport issued by the Government of India by fixing all service monetary benefits.

For Petitioner	.. Mr.P.Sivakumar
For R1 to R5	.. Mr.T.M.Pappiah, Spl. Govt. Pleader
For R6	.. No Appearance

ORDER

Challenging the order of the fourth respondent dated 31.12.2009 and the consequential direction to the 5th respondent - Farm to allow the petitioner to continue as worker till 30.04.2018 as per the age proof shown in the Passport issued by the Government of India, by fixing all service monetary benefits, the present writ petition has been filed.

2. The case of the petitioner is as follows:

The petitioner had joined Government Horticulture Farm, as a worker on daily wages in the year 1978. As per the Government order in G.O.Ms.No.494, Agriculture Department, dated 29.11.2009, the daily wages workers were brought under Regular establishment with effect from the year 2007. According to the petitioner, his date of birth is wrongly entered in the service record without her knowledge and in view of the wrong entry, she was relieved from service on 31.12.2009. During the course of his argument, the learned counsel for the petitioner would draw the attention of this Court to the passport issued by the Passport Office to the petitioner in which, her date of birth is shown as 21.04.1958.

3. Upon notice Mr.T.M.Pappiah, learned Special Government Pleader entered appearance on behalf of the respondents and filed a counter affidavit wherein, it is stated that there is no authenticated documents for establishing the date of birth of the petitioner. Entry in the service records was made as per the information furnished by the petitioner and she was all along aware of the entry and therefore, she cannot question the correctness of the entry.

4. Upon considering the rival submissions made by the parties, this Court is of the view that there appears to be disputed questions of fact, which could not be adjudicated by this Court by exercising jurisdiction under Article 226 of the Constitution of India. In effect, the petitioner is calling upon this Court to declare the age of the petitioner and to continue her service as per such declaration. Such declaration cannot be granted by this Court under Article 226 of the Constitution of India. However, it is always open to the petitioner to approach the competent civil Court for declaration of actual age and on such declaration, she can claim for whatever service benefits as per her entitlement. Therefore, this Court is of the view that the writ petition as it framed is not maintainable and the same is dismissed. Hence, liberty is granted to the petitioner to approach the competent forum for declaration of her age and other consequential reliefs.

The writ petition accordingly disposed of. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

kkd

To

- 1.The Principal Secretary to Govt. of Tamil Nadu
Commercial Taxes and Registration Department,
Fort St.George, Chennai.
- 2.The Inspector General of Registration,
Santhome High Road, Chennai-28.
- 3.The District Registrar,
(Asst.Inspector General of Registration Cadre,)
Office of the District Registrar, Chennai North,
Murthigal Lane, Chennai 600 001.
- 4.The District Revenue Officer (Stamps),
Office of the District Collector,
Chennai-1.

+1 cc to Mr.P.Sivakumar Advocate sr 52660

+1 cc to Government Pleader sr 53307

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