

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WRIT PETITION No.39773 of 2015

and

M.P.Nos.1 to 3 of 2015 and W.M.P.No.20287 of 2016

A.Santhanam,
Line Inspector,
O/o. Assistant Engineer O & M.,
TANGEDCO, Town Chengalpet,
Chengalpet. ... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Distribution Generation
Corporation Limited, Anna Salai,
Chennai-2.
2. The Chief Engineer (Personnel),
Tamil Nadu Distribution Generation Corporation
Limited,
Anna Salai, Chennai-2.
3. The Superintending Engineer,
Tamil Nadu Distribution Generation Corporation
Limited,
Chengalpet Electricity Distribution Circle,
Chengalpet.
4. The Executive Engineer (O & M).
Tamil Nadu Distribution Generation Corporation Limited,
Town Chengalpet, Chengalpet.
5. The Assistant Engineer (O & M),
Tamil Nadu Distribution Generation Corporation Limited,
Town Chengalpet,
Chengalpet. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records connected with the impugned order passed by the

Third Respondent vide Memo No.00392/Ni.Pi-3/U12014 dated 16.06.2014 and quash the same and consequently, direct the respondents to alter date of birth of the petitioner as 01.06.1962 instead of 10.05.1958, in his service records.

For Petitioner : Mr.S.N.Ravichandran
For Respondents : Mrs.R.Varalakshmi

O R D E R

The claim of the alteration of date of birth of the petitioner was rejected by the third respondent in proceedings dated 16.06.2014, which is under challenge in this writ petition.

2.The Learned counsel for the writ petitioner contended that the actual date of birth of the writ petitioner is 01.06.1962 and it was mistakenly recorded in his Service Register as 10.05.1958. In this regard, it is claimed that the writ petitioner submitted an application on 28.04.1995, seeking alteration of date of birth and the same was kept in cold storage by the respondent and no action was taken on time. This apart, the learned counsel urged this Court that the school in which he studied issued the transfer certificate, which is enclosed in page-7 of the typedset of papers and as per the Transfer Certificate issued by the School, the Date of Birth of the Writ Petitioner is 01.06.1962.This apart, the genuinity of the School Certificate was also verified by the respondents and the genuinity was confirmed by the school authorities. This apart, the respondents also recommended the case of the Writ Petitioner for alteration of date of birth in various proceedings.

3.Learned counsel for the respondents strenuously contends that the Certificate produced in page - 7 of the typedset of papers is not Transfer Certificate and it is only a record sheet. Further, the record sheet is undated and the date of issuance of certificate is not produced. Even during verifying the genuinity, there is no date mentioned in the record sheet produced by the writ petitioner. Learned Counsel further contends that at the time of joining into service, the writ petitioner has produced certificates showing that his date of birth is 10.05.1958, specifically, the writ petitioner produced working experience certificates, educational qualification and other related certificates before the Committee which selected the writ petitioner for appointment. In all those certificates, the date of birth of the writ petitioner was recorded as 10.05.1958.

4.The learned counsel for the respondents relying on para-8 of the counter stating that the writ petitioner was

appointed as Helper and subsequently, promoted to the post of Wireman and Line Inspector in accordance with his seniority. In respect of date of birth, he had not made any objection through out his service and only on 05.10.2010, the writ petitioner made an application seeking alteration of date of birth after a lapse of 15 years. Thus, his application seeking alteration of date of birth was rightly rejected by the respondent and as such there is no infirmity in the order impugned in the writ petition. This apart, the writ petitioner had produced two transfer certificates with different admission numbers i.e., 291 and 377 issued by the same school. There is suspicion in respect of two different certificates / record sheets submitted by the writ petitioner. In this regard, the learned counsel contends that the Headmaster of the Elementary school issued two different record sheets mentioning the date of birth as 10.05.1962 studied upto 5th standard and 01.06.1962 studied upto 3rd standard which are contrary. Different date of birth are mentioned in two certificates produced by the writ petitioner. Thus, the certificates produced by the writ petitioner cannot be trusted upon. But the writ petitioner relied on the record sheet issued in 377 and claims the same as genuine.

5. Heard both the learned counsel for the petitioner as well as the respondents.

6. The basic facts of the case on hand remains that the writ petitioner was absorbed in the service of the Board on 20.01.1995. In respect of the submission made by the learned counsel for the writ petitioner that the application seeking for alteration of date of birth of the writ petitioner was initially submitted on 28.04.1995, there is no record to prove the same. Contrarily, the application was entrusted by the petitioner to the respondents only in the year 2010. In the absence of any material to show that the application was submitted on 28.04.1995, the mere statement made by the writ petitioner in this regard need not be accepted. The application for alteration of date of birth is to be submitted within a period of five years from the date of appointment. In the event of not establishing that the application was submitted on 28.04.1995, the case of the writ petitioner cannot be considered in accordance with the rules and it is to be rejected *in limini*.

7. Thus, this Court is of the opinion that it is for the writ petitioner to establish that the application was submitted in time. In the absence of any material to show that the application was submitted in accordance with the rules within the time prescribed, there is no reason to consider the same.

8. This Court has independently gone through the certificate produced by the writ petitioner in page - 7 of the

typed set of papers [the extract of record sheet is enclosed]. In the said document, the name is mentioned as A.Santhanam and his Date of Birth is mentioned as '01.06.1962' and the same was undersigned by the Headmaster, ASIFARE Primary School Eachankarunai and the certificate was attested by the Assistant Administrative Officer, for SE/CEDC/TNEB, Chengalpattu. Over the page, the marks obtained by the writ petitioner as stated. However, the record sheet does not bear any date either in the signature or in the document. The date of issuance is missing in this record. Even in the subsequent letter dated 28.11.2011, it is obligatorily stated that it is the transfer certificate but the date is not mentioned. The Court has got every reason to disbelieve these kind of records more so for the purpose of altering date of birth of a public servant.

9.This Court is of the opinion that the request made by the petitioner for altering entries relating to his date of birth in his service register cannot be considered for the reasons:

1) The writ petitioner at the time of appointment, produced certain records showing that his date of birth is 10.05.1958. Relying on records produced by the writ petitioner, the date of birth was recorded by the respondents.

2) The certificate produced by the writ petitioner in this writ petition cannot be relied upon, in view of the fact that the date of issuance of certificate is unknown and the actual date of production of certificate along with the application is also not established.

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

(a)Under Section 3(1), the Central Government has been authorized to appoint a person as Registrar General of India. India 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 loan 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.

(b) Under Sub-Section (2) of Section 7, every Register 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 taken place in his jurisdiction and to ascertain and register the particulars in the register. Under Section, 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.

(c) 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.

(d) 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 delay 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 the 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.

11. In the instant case, the writ petitioner appears to have submitted his application only in the year 2010 and seeking alteration of his date of birth as 01.06.1962. However, there is no proof to establish the certificate of birth was obtained in accordance with the Act by the writ petitioner. At any point of time as the birth certificate issued by the competent authority produced before this Court by the writ petitioner seeking alteration of date of birth, this apart, the details of filing of application for alteration of date of birth is not disputed by the respondents and this writ petitioner is unable to establish the actual date of submission of his application for alteration of his date of birth. In the absence of these materials, this Court has to raise a reasonable suspicion in the manner in which the application is submitted and the nature of certificate produced by the writ petitioner for alteration of

date of birth. In these circumstances, the application submitted by the writ petitioner after 15 years, has to be rejected. There is no record to vouch for the fact that any Magistrate has issued any such order to enable the Registrar to enter the information so furnished in the record/register maintained.

12. Therefore, this Court is of the opinion that the birth extract produced by the writ petitioner from the school he studied can be of no avail, as it cannot be trusted for its correctness. Thus, this Court do not find any justifiable reason to issue a Writ of Certiorari Mandamus as prayed for and this Court hold that this writ petition lacks merits.

13. Accordingly, the writ petition stands dismissed. However, no order as to costs. Consequently, connected miscellaneous petitions are closed.

-sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

1. The Chairman,
Tamil Nadu Distribution Generation
Corporation Limited, Anna Salai,
Chennai-2.
2. The Chief Engineer (Personnel),
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5. The Assistant Engineer (O & M),
Tamil Nadu Distribution Generation Corporation Limited,
Town Chengalpet, Chengalpet.

+1 cc to Mr. S.N. Ravichandran, Advocate Sr.No.57026

+1 cc to Mr. R. Varalakshmi, Advocate Sr.No.57363

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EV (CO)

MD: 15/09/2017



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