

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.12.2017

CORAM

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

WA.No.1377 of 2016
and C.M.P.No.17854 of 2016

1 State of Tamil Nadu
Secretary to Government,
Revenue Department, Fort St.George,
Chennai-9.

2.The Special Commissioner and
Commissioner for Revenue Administration,
Chepauk, Chennai-5.

3.The District Collector,
Erode District at Erode. Appellants/Respondents

..Vs..

R.Gajalakshmi Respondent/Petitioner

Writ Appeal has been filed under clause 15 of Letters Patent
against the order of this Court dated 18.08.2014 made in
W.P.No.7786 of 2008.

Prayer in WP.No.7786/2008:Writ petition filed under Article 226
of the constitution of India to issue a writ of certiorarified
mandamus calling for the calling for the records pertaining to
the impugned G.O.Ms.No.118 Revenue (Service-II) Department dated
23.02.2005 and consequential Letter No.29600/Services1(2)/2005-3
dated 23.02.2006 issued by the 1st respondent and quash the same
and consequently direct the respondents to make necessary
corrections in the service records of the petitioner and enter
her correct date of birth as 02.02.1967 instead of 01.02.1966.

For Appellants : Mr.V.Anandhamurthy,
Additional Government Pleader

For Respondent : Mr.M.R.Thangavel.

JUDGMENT

(delivered by P.VELMURUGAN, J.)

This Writ Appeal has been filed by the Government challenging the order of this Court dated 18.08.2014 made in W.P.No.7786 of 2008.

2. The case of the respondent in the writ petition is that she was born on 02.02.1967 to her parents viz., Ramasamy Gounder and Pappathi at Tholur Kattuvalavu, Paggalpatti village, Omalur Taluk, Salem District. At the time of admitting into a primary school, her grand mother gave the date of birth as 01.02.1966 instead of 02.02.1967. She was selected by the TNPSC to the post of Deputy Superintendent of Police on 15.05.1998 and joined duty on 01.06.1998 and confirmed w.e.f. 23.07.2000. Further, she appeared and selected to the post of Deputy Collector and posted to work as Training District Collector, Namakkal District on 01.02.2002 and thereafter promoted to the post of District Revenue Officer and joined the said post on 04.05.2007. In the meanwhile, in the year she noticed that the correct date of birth is 02.02.1967 and submitted application on 23.10.2000 for change of date of birth through proper channel, which is within the period of five years as per Tamil Nadu Civil Service Conduct Rules. The Sub Registrar, Omalur vide his proceedings dated 17.10.2002 reported to the RDO, Mettur about the entires made in the birth register at Omalaur with regard to the date of birth and its genuineness and also submitted the extracts from the said birth register. The first appellant vide GO.Ms.No.118 Revenue (Ser.II) Department dated 23.02.2005 rejected the request of the respondent for correction in date of birth. Thereafter, the respondent filed a review petition dated 09.06.2005 before the first appellant and the same was also dismissed on 23.02.2006. On verification, the respondent came to know that the name of her mother "Pappathi" was written in the column for the name of child. On enquiry, the Sub Registrar, Omalur came to know that in the birth register of the year 1967, the names of the mothers were mistakenly written in the column pertaining to the name of the child, for few months by the concerned subordinates and this was evidenced by perusing the birth extracts in which, the column allotted for particulars of child, the name of the mother was made. The column allotted for regarding sex also wrongly entered. The mistake was rectified during later months in the birth register of the year 1967.

3. Further, after an elaborate enquiry and following due procedure, Tahsildar, Omalur issued a proceedings dated 09.06.2000 to make necessary corrections in the Birth Register 1967 pertaining to the name of the child as "Gajalakshmi" instead of "Pappathi".

4. The learned single judge after hearing the arguments of both sides, allowed the writ petition filed by the respondent.

5. Aggrieved against the order passed by the learned single judge in WP.No.7786 of 2008 dated 18.08.2014, the appellants preferred the present writ appeal.

6. The learned Additional Advocate General appearing for the appellants would submit that it is the case of the respondent that during her school admission in the first standard, her illiterate grand mother had irrelevantly mentioned the date of birth as 01.02.1966 instead of 02.02.1967. The respondent's father is a Doctor by profession. As a father he ought to have gone through all the entries made in the SSLC book including the date of birth entered therein as 01.02.1966, before signing the declaration. If he had any doubt over the entries he would have rectified at that relevant point of time. The father of the respondent was not an illiterate to sign in a wrong declaration. If he felt that the date of birth of his daughter was incorrect, he ought to have made corrections in the entries then itself. Failure to do so would amount to an admission to that the entries made in the SSLC Book were accepted to be correct. The respondent has all along kept quite and raised the question of correction in the date of birth only in the year 2000, in order to gain additional service and other benefits.

7. The learned counsel for the respondent would submit that the respondent's father is a Doctor by profession and due to his employment, the respondent was under the custody of her grand mother. At the time of her admission in the school she has given wrong date of birth. The mistake was committed by the grand mother, for which the respondent should not suffer. Even in the birth register of Paggalpatti Village for the year 1967, her date of birth is mentioned as 02.02.1967.

8. During the course of arguments, We have directed the Special Government Pleader to produce the original files. Accordingly, the Government have produced the original birth registers pertaining to the years 1966 and 1967 of Paggalpatti Village.

9. On a perusal of the Birth Register of Paggalpatti village for the year 1967, it is found that the column allotted for particulars of child, the name of the child was wrongly mentioned as Pappathi and later on it was ratified by an order of the Tahsildar as Gajalakshmi on 09.06.2000. It is also seen from the records that in the column allotted for particulars of mother the name of the mother was not entered and the place was left as blank and later in the year 2000 it was filled and the

same was attested by the Tahsildar, Omalur. It is needless to mention here that in the birth register for the year 1966, no entries were found regarding the said alleged original date of birth of the respondent i.e, on 01.02.1966. Under the said circumstances, there is no reason to disbelieve the claim of the respondent.

10. From the records, it is clear that in the birth register of the year 1967 of Paggalpatti Village only the birth entry of the respondent is found, in which, the name of her mother was wrongly entered in the column allotted for the particulars of child and the same was subsequently rectified.

11. In view of the above findings, the Writ Appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1 The Secretary to Government,
Revenue Department, Fort St.George,
Chennai-9.

2.The Special Commissioner and
Commissioner for Revenue Administration,
Chepauk, Chennai-5.

3.The District Collector,
Erode District at Erode.

+1cc to Government Pleader Sr.No.87693

+1cc to Mr.C.Anbu, Advocate Sr.No.86154

GJ(CO)

sm:24.1.2018

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