

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.17156 of 2013
and WMP.No.22822 of 2016

S.Vidya alias Vidyawathi .. Petitioner

Vs

1.The Commissioner,
Office of the Commissioner Pallavaram Municipality,
Chrompet, Chennai-44.

2.The District Collector,
Nutrition Scheme Division,
Kanchipuram District, Kanchipuram. .. Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records of the 1st respondent in order No.2400/07/B2 dated 05.02.2013, quash the same and consequently direct the respondents to enter the date of birth of the petitioner as 24.04.1963 on the basis of the school leaving certificate and Gazette notification submitted by her in her representations dated 07.03.2011 and 24.04.2012 and to permit the petitioner to continue in service till her actual date of superannuation.

For Petitioner:Mr.L.P.Maurya

For R1 :Mr.R.Purushothaman, Standing Counsel
for pallavaram Municipality

For R2 :Mr.S.Navaneethan
Addl.Govt.Pleader

O R D E R

This writ petition has been filed to issue a writ of Mandamus calling for the records of the 1st respondent in order No.2400/07/B2 dated 05.02.2013, quash the same and consequently direct the respondents to enter the date of birth of the petitioner as 24.04.1963 on the basis of the school leaving

certificate and Gazette notification submitted by her in her representations dated 07.03.2011 and 24.04.2012 and to permit the petitioner to continue in service till her actual date of superannuation.

2. According to the petitioner, she was appointed as a Cook on 01.02.1985 in Pallavaram Municipality Primary School under the Puratchi Thalaivar MGR Nutritious Programme. The petitioner's correct date of birth has been shown in the School Leaving Certificate as 24.04.1962. At that time, she was issued Star Health Insurance Card in the year 2008. The petitioner's date of birth was recorded as 01.07.1955 and the date of her superannuation was recorded as 30.06.2013. But the petitioner's correct date of birth viz., 24.04.1962 has recorded in the school leaving certificate. Therefore, the petitioner's date of birth has been wrongly noted in the document and in view of the said document, the petitioner has to be superannuated. The respondent has taken into account the date of birth as 01.07.1955, wrongly made entry in the record. In this regard, the petitioner has made a representation dated 07.03.2011 to the first respondent on the basis of the School Leaving Certificate. The said representation is still pending before the second respondent.

3. The learned counsel for the petitioner would submit that the first respondent has passed the impugned order dated 05.02.2013, by allowing the petitioner to retire from service on the basis of the wrong date of birth as 01.07.1955. Therefore, the petitioner made a representation to the second respondent to rectify the said mistake and consider the representation of the petitioner and to pass appropriate orders on the basis of the School Leaving Certificate. Since no order has been passed by the second respondent so far, the petitioner has filed the present writ petition.

4. The learned Additional Government Pleader appearing for the first respondent has submitted that the first respondent has passed an order on the basis of the material evidence available at the time of entry made in the records and the petitioner was permitted to retire from service on 30.06.2013. However, the petitioner made a representation to the District Collector and the said representation is still pending before the said District Collector.

5. Considering the facts and circumstances of the case, the second respondent is directed to consider the representation of the petitioner dated 24.04.2012, taking into account the above said facts. Admittedly, by virtue of the impugned order dated 05.02.2013, the petitioner is permitted to retire from service, thereafter, in the event of the petitioner's

representation has been considered by the second respondent, according to the petitioner, the petitioner shall continue his service, if the petitioner reinstated into service on the basis of the correct date of birth as on 24.04.1962.

6. In view of the submission made by the learned counsel for the petitioner, by ends of justice, this Court is inclined to direct the second respondent to consider the petitioner's representation dated 24.04.2012 on merits and in accordance with law and to pass appropriate orders as expeditiously as possible, preferably, within a period of twelve weeks from the date of receipt of a copy of this order and the petitioner is also directed to furnish a copy of the representation along with this order copy to the second respondent.

7. The writ petition is disposed of with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kkd
To

1.The Commissioner,
Office of the Commissioner Pallavaram Municipality,
Chrompet, Chennai-44.

2.The District Collector,
Nutrition Scheme Division,
Kanchipuram District, Kanchipuram.

+1cc to the Government Pleader Sr.10743
+1cc to Mr.P.Srinivas, Advocate Sr.10634
+1cc to M/S.L.P.Maurya, Advocate Sr.10495

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