

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.09.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No.9485 of 2016

A.Chinnasamy

.. Petitioner

Vs

1 The District Collector
Collectorate
Salem District,
Salem 1.

.. Respondent

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Mandamus, to direct the respondent herein to alter the Date of Birth dated 24.05.1960 of the petitioner in the Service Register as per Salem District Gazette bearing Number 1, dated March 1997, published by the District Collector, Salem, Respondent herein.

For Petitioner : Mr.A.Rajakumar

For Respondent : Mr.K.Dhananjayan
Special Govt.Pleader

O R D E R

The petitioner has come forward with this Writ Petition to direct the respondent to alter his date of birth as 24.05.1960 instead of 13.04.1958.

2.The Writ Petitioner states that he was born on 24.5.1960 and his date of birth was erroneously entered as 13.4.1958 instead of 24.5.1960. The writ petitioner was appointed as Junior Assistant on temporary basis and regularised pursuant to the orders of Tamil Nadu Public Service Commission, with effect from 28.6.1981. The learned counsel for the writ petitioner submits that the writ petitioner filed a Suit in O.S.No.458 of 1993, and subsequently, he got a decree in respect of his date of birth.

3.However, in respect of Government service, no Application seeking alteration of date of birth was submitted, within a period of five years. Even as per the typed set of papers filed along with this Writ Petition, a representation has been submitted by the writ petitioner on 22.1.2016, to the District Collector in respect of alteration of his date of birth. Thus, it is clear that the Application seeking alteration of date of birth was not submitted as per Rule 49 of the Tamil Nadu State and Subordinate Services Rules (in short 'Rules'), within a period of five years from the date of appointment. Rule 49 of the Rules is extracted hereunder:

"49. Alteration of date of birth --(a) If, at the time of appointment, a candidate claims that his date of birth is different from that entered in his S.S.L.C. or 66 Matriculation Register or School records, he shall make an application to the Tamil Nadu Public Service Commission in cases where the appointment is made in consultation with the Commission and in other cases to the appointing authority stating the evidence on which he relies and explaining how the mistake occurred. The application shall be forwarded to the Commissioner of Revenue Administration for report after investigation by an officer not below the rank of a Deputy Collector and, on receipt of the report, the Tamil Nadu Public Service Commission or the appointing authority, as the case may be, shall decide whether the alteration of date of birth may be permitted or the application may be rejected: Provided that in case of a candidate who was born outside the State of Tamil Nadu the investigation through the Commissioner of Revenue Administration shall be dispensed with and the Tamil Nadu Public Service Commission or the appointing authority, as the case may be, shall examine and scrutinize the records that may be produced by the candidate and shall decide whether the alteration of date of birth may be permitted or the application may be rejected. (b) After a person has entered service, an application to alter the date of his birth as entered in the official records shall be entertained only if such an application is made within five years of such entry into service. Such an application shall be made to the authority competent to make an appointment to the post held by the applicant at the time of his application and shall be disposed of in accordance with the procedure laid down in sub-rule (a). (c) Any application received after five years after entry into service or any application, which is not supported by entries in Secondary School Leaving Certificate, School, College or University records, birth extract from records of local bodies or military discharge certificates, shall be summarily rejected. *Proviso- [Omitted in

G.O.Ms.No.388, P & AR (Per.S), dt.27-12-95, w.e.f.3-8-94]

(d) In considering the question of permitting an alteration on the date of birth as entered in the official records even when such entry is proved to have been due to a bonafide mistake, the Government or the appointing authority shall take into consideration the circumstance whether the applicant would normally be eligible for appointment to the post at the time of entry into service had his age been correctly stated and what would have been its effect on his service and the service conditions of other officers in the service and may permit the alteration subject to such condition as they or it may deem fit to impose: Provided that the Tamil Nadu Public Service Commission shall be consulted in the case of an applicant who has been initially recruited through the Tamil Nadu Public Service Commission, if it is proposed to accept his request for alteration of date of birth. (e) The Procedure laid down in sub-rule (a) shall be followed in all cases where alteration of date of birth is proposed suo motu by the Head of Office on the basis of medical opinion, in the absence of any other authoritative records. Explanation - For the purpose of this sub-rule "authoritative records" are the secondary school leaving certificate or University, College, or School records or Discharge Certificate of Army. 67 (f) The decision of the Tamil Nadu Public Service Commission, the appointing authority or the Government, as the case may be, shall be final. "

4. In view of the aforementioned Rules, any Application seeking alteration of date of birth to be submitted by the Government Employee within a period of five years from the date of appointment. The present writ petition was filed after a lapse of many years from the date of entry into Government service namely, during 2016, seeking alteration of date of birth.

5. Thus, this Court cannot issue any direction even to consider the Application in respect of alteration of date of birth. Accordingly, the other grounds raised in this Writ Petition deserve no further consideration. Accordingly, the Writ Petition stands dismissed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rpa

To

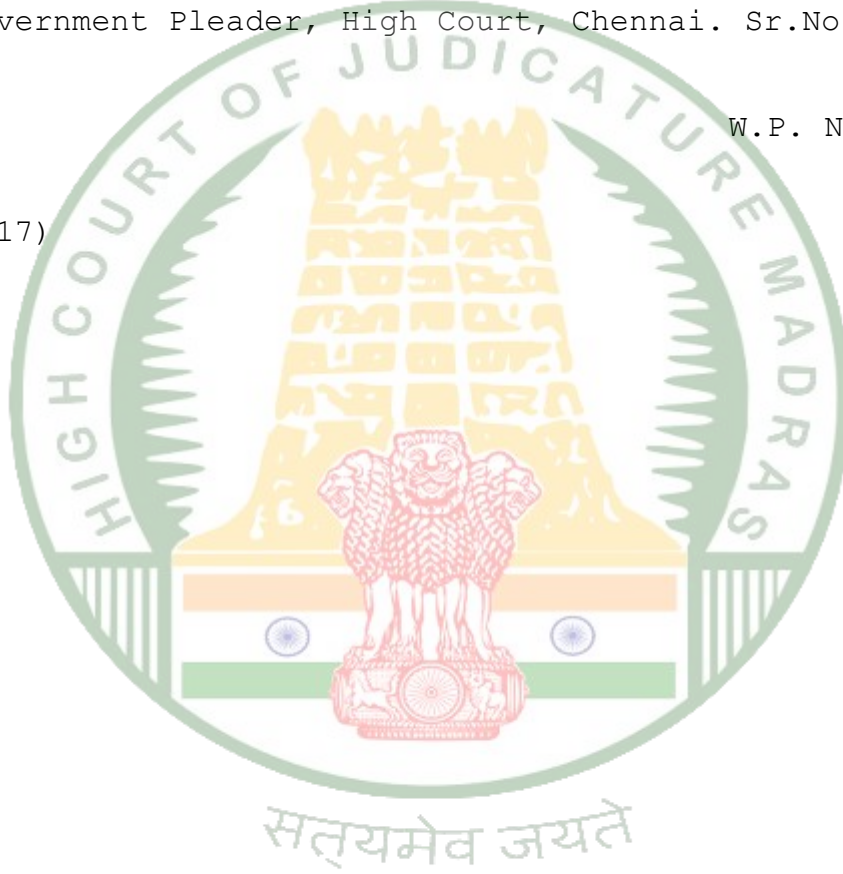
1 The District Collector
Collectorate
Salem District,
Salem 1.

+1 CC to Mr.A.Rajakumar Advocate Sr.No.66225

+1 CC to Government Pleader, High Court, Chennai. Sr.No.66036

W.P. No.9485 of 2016

KP(06.10.2017)



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