



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2017

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.A(MD)Nos.844 and 845 of 2017
and
C.M.P. (MD)No.5760 of 2017

S.Amaladoss .. Appellant in both W.As.,

Vs.

1. The Director of School Education,
Directorate of School Education,
Chennai 6.
2. The Deputy Director of School Education,
Directorate of School Education,
Chennai 6.
3. The District Collector,
Pudukkottai.
4. The Chief Educational Officer,
Pudukkottai.

.. Respondents in W.A(MD)No.844 of 2017

1. The Commissioner of Revenue Administration,
Chepauak, Chennai - 5.
2. The Director of School Education,
Directorate of School Education,
Chennai 6.
3. The Joint Director of School Education,
Directorate of School Education,
Chennai 6.
4. The Deputy Director of School Education,
Directorate of School Education,
Chennai 6.
5. The District Collector,
Pudukkottai.



6. The Chief Educational Officer,
Pudukkottai.

.. Respondents in W.A(MD)No.845 of 2017

COMMON PRAYER : These Writ Appeals are filed under Section 15 of Letters Patent to set aside the order dated 05.06.2015 in W.P.(MD) No.17847 of 2014 & 2064 of 2015 on the file of this Court.

Prayer in WP(MD) . 17847/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to permit the petitioner to serve till 31.10.2016 in the light of the decree of the Competent Civil Court in A.S. No. 57/98.

Prayer in WP(MD) . 2064/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, thereby call for the records of the 1st respondent in Ka,No, VNi.3(3)/34793/2014 dated 15.10.2014 and quash the same as illegal arbitrary and consequently direct the respondents to permit the petitioner to continue his service till 30.09.2016 in the light of the judgment and decree passed by the Learned Additional District Judge and Chief Judicial Magistrate, Pudukkottai in A.S. No. 57 of 1998 dated 13.01.1999.

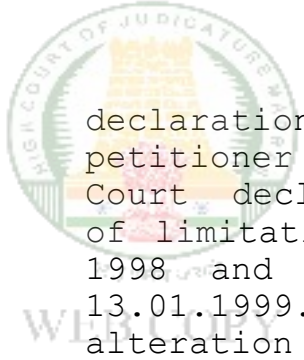
For Appellant : Mr.P.Ganapathi Subramanian
in both W.As.,
For Respondents : Mr.M.Govindan
in both W.As., Special Government Pleader.

COMMON JUDGMENT

[Judgment of the Court was made by G.R.SWAMINATHAN, J.]

The unsuccessful writ petitioner is on appeal challenging the common order dated 05.06.2015 in W.P.(MD) Nos.17847 of 2014 and 2064 of 2015.

2.The case of the appellant is that he was appointed as Secondary Grade Teacher on 23.10.1989. His date of birth was entered in the school records as 26.10.1956. According to the appellant it was incorrect. The correct date of birth was 23.09.1958. He therefore issued a lawyer notice to the authorities on 28.06.1994. The Deputy Director of School Education, Chennai vide reply dated 22.07.1994 informed the writ petitioner that in the service register his date of birth was entered only on the basis of the School records and that for making necessary changes in the School records, the writ petitioner must take appropriate legal action. Thereafter, the writ petitioner filed in O.S.No.398 of 1994 before the District Munsif Court, Aranthangi and obtained a

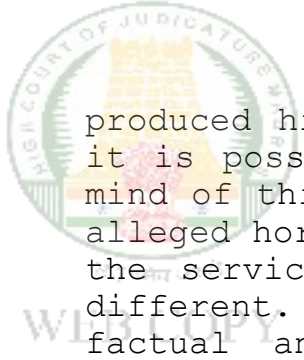


declaration that his correct Date of Birth was 23.09.1958. The writ petitioner placed reliance on the baptism certificate. The Trial Court declined to grant relief to the writ petitioner on the ground of limitation. There upon the writ petitioner filed A.S.No.57 of 1998 and the same was allowed by Judgment and decree dated 13.01.1999. Thereupon, the appellant applied on 02.06.1999 for alteration of his date of birth. The first respondent finally passed an order dated 15.10.2014 declining to consider the said request of the writ petitioner for effecting alteration of his Date of Birth. This was challenged by the writ petitioner in W.P.(MD) No.2064 of 2015. He also filed W.P.(MD) No.17847 of 2014 for directing the authorities to permit him to serve till 31.10.2016. The learned Judge dismissed both the writ petitions. Aggrieved by the same, the present writ appeals have been filed.

3. The learned counsel appearing for the appellant has reiterated the contentions set out in the grounds of appeal. According to him, he moved the employer for alteration of Date of Birth within 5 years after entering services. It was the authority who relegated him to move the civil Court. He obtained declaratory decree and also a decree for mandatory injunction from the civil Court thereafter. He applied for alteration of Date of Birth. The same cannot be said to be belated.

4. Even though, the submission made by the learned counsel for the appellant is attractive on the face of it, this Court is not inclined to interfere with the order passed by the learned Judge for more than one reason. The respondents have taken a stand that the writ petitioner was appointed as Secondary Grade Teacher based on his employment seniority and the date of birth as found mentioned in his S.S.L.C., mark statement and other records. Normally only on completion of 14 years of age, a student is permitted to write his or her S.S.L.C., examination. If the Date of Birth of the writ petitioner is taken as 23.09.1958 as claimed by him, he would not have been eligible to sit for the S.S.L.C examination.

5. Thus the appellant had taken advantage of his Date of Birth originally mentioned in the school records. After taking advantage of the same, it is not open to the appellant to seek an alteration for the purpose of lengthening his service. In other words, for early completion of one's schooling, the older date of birth is given. For lengthening one's service, the later date of birth is given. This is nothing but blowing hot and cold. That apart, the application for alteration of his Date of Birth was not lodged within 5 years after entering service. It is true that the appellant issued a lawyer notice within 5 years from the date of entering service. But it cannot be said to be an application based on which Date of Birth could be altered in the service records. An appropriate application was taken out by the appellant only in the year 1999 by which time it was already belated. More than anything else, the appellant obtained a favourable decree in the civil Court on the strength of baptism certificate. If the appellant had



produced his birth certificate as issued by a statutory authority, it is possible that it could have inspired some confidence in the mind of this Court, Government employees are known to rely on this alleged horoscopes for claiming a date different from one that is in the service register. The present experience is not very different. The learned Judge has elaborately dealt with the factual and legal contentions and finally dismissed the writ petitions. We see no ground to interfere with the same.

6. These writ appeals are without any merit. They stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To:

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 6. The Joint Director of School Education,
Directorate of School Education,
Chennai 6.
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 72002

SKM
TE/SV-MMS/SAR-II : 07/09/2017 : 4P/8C

W.A(MD) Nos.844 and 845 of 2017 and
C.M.P. (MD) No.5760 of 2017
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