



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 17.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.[MD].No.935 of 2017

K.Sannasi

... Appellant

Vs.

1.Veterinary Surgeon (Assistant Director)
Veterinary Hospital,
Periyakulam.

2.Regional Joint Director,
Animal Husbandry, Theni.

3.Dr.P.Ramakrishnan
Regional Joint Director (retired)
No.112-B/1-8 Kasthuri Nagar 3rd Street,
Oddenchattram, Dindigul District.
(R3 impleaded vide order dated 18.08.2014
R3 is given up in this appeal as he is
not concerned in the matter in appeal)

... Respondents

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 06.07.2015 made in W.P.(MD) No.2224 of 2014 on the file of this Court.

Prayer in WP(MD) . 2224/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the file of the 1st respondent unilaterally ordering to change the registered birth date in the Service Register of the petitioner in his executive order passed in Na.Ka.No.25 of 2013 dated 28.10.2013 without granting any opportunity to this petitioner, quash the proceedings that affect the petitioner.

For Appellant : Mr.R.A.Mohanram

For Respondents : Mr.M.Govindan, Spl.G.P.

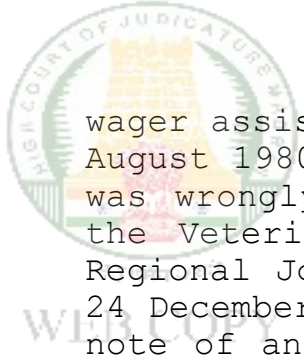
JUDGMENT

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

Not satisfied with the relief granted in W.P.(MD) No.2224 of 2014 by order dated 06 July 2015, the writ petitioner has filed this intra court appeal.

<https://hcservices.ecourts.gov.in/hcservices/>

2.According to the writ petitioner, he was appointed as daily



wager assistant in Veterinary Hospital in Periyakulam on and from 02 August 1980. Though he was born on 10 July 1959, his date of birth was wrongly mentioned as 13 April 1956. Corrections were made by the Veterinary Surgeon in 1995 and the same was ratified by the Regional Joint Director of Animal Husbandry, Theni vide order dated 24 December 1999. But, the said altered date of birth was not taken note of and without giving opportunity to the writ petitioner, the said alteration in the writ petitioner's date of birth was set aside by order dated 28 October 2013 and it was proposed to retire the writ petitioner on 13 April 2014 by considering the writ petitioner's date of birth as 13 April 1956. This was questioned by the writ petitioner by filing W.P.(MD) No.2224 of 2014. The learned Judge, by order dated 06 July 2015 allowed the writ petition and set aside the order dated 28 October 2013. He was permitted to be reinstated into service. It was made clear that he was not entitled to any backwages for the period in which he was not in employment. It was also directed that the writ petitioner should refund the retiral benefits received by him. Aggrieved by the denial of backwages by applying the principle of "No work No pay", this writ appeal has been filed.

3. According to the writ petitioner, full backwages ought to have been ordered. We are however not inclined to interfere with the order passed by the learned single Judge. In fact, we are of the view that the authorities ought to have filed a writ appeal questioning the allowing of the writ petition. We note that serious allegations regarding fabrication have been made. We are also at a loss to note as to how opinion was given by the Government Advocate that it is not a matter fit for appeal. Date of birth once entered at the time of entering service cannot be casual by changed. Even though there are several circumstances that cast a serious doubt on genuineness of the claim of the writ petitioner, inasmuch as there is no appeal filed by the Government, questioning the order allowing the writ petition, we would rather allow the matter to rest there. However, we do not want to show any further indulgence by granting backwages for the period, when the writ petitioner did not work. The principle of "No work, No pay" has rightly been applied in this case.

4. We see no merit in this writ appeal. The writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(Writ)

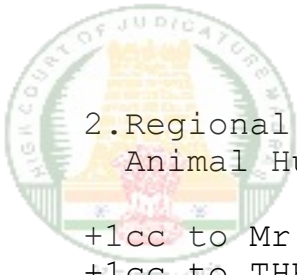
/True Copy/

Sub Assistant Registrar

To

1. Veterinary Surgeon (Assistant Director)

<https://hcservicescourts.gov.in/hcservices>
Veterinary Hospital,
Periyakulam.



2.Regional Joint Director,
Animal Husbandry, Theni.

+1cc to Mr.R.A.MOHANRAM Advocate in SR. No.66052

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.66428

WEB COPY

ARUL/SKM

JS/SV/SAR.1/27.7.2017/3P-5C

W.A. [MD] .No.935 of 2017
17.07.2017