

HON' BLE SRI JUSTICE SURESH KUMAR KAIT  
&  
HON' BLE SRI JUSTICE U. DURGA PRASAD RAO

W.P. No. 21659 of 2017

ORDER:- (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

This writ petition is filed challenging the order dated 14.06.2016 in O.A.No. 8695 of 2012 passed by the Tribunal, whereby the O.A. filed by the petitioner, was dismissed.

The case of the petitioner is that his father, being illiterate, while admitting the petitioner in Government Samithi Elementary School, Nandipadu, mistakenly declared the petitioner's date of birth as 10.08.1959, based on which, he was appointed as Clerk-cum-Typist under Rule 10(1) of A.P. State and Subordinate Service Rules on 31.01.1989. When the authorities concerned entered his date of birth as 10.08.1959 in the Service Register based on his SSC Marks Memo, the petitioner brought this fact to the notice of the 2<sup>nd</sup> respondent by producing his birth certificate which shows his date of birth as 10.07.1961 and requested the authorities concerned to make necessary corrections in SSC Marks Memo.

The crux of the matter is that in SSC certificate, the petitioner's date of birth is wrongly recorded as 10.08.1959, and based on that certificate, the same date of birth was entered in his Service Register.

The claim of the petitioner is that by mistake his father mentioned his date of birth as 10.08.1959 in Government Samithi Elementary School, Nandipadu whereas his actual date of birth is 10.07.1961.

It is not in dispute that when the date of birth is wrongly recorded by any authority, on an application being made by such person for making necessary corrections thereof, such authority is bound to correct the date of birth. Here, based on the SSC Certificate wherein the petitioner's date of birth is mentioned as 10.08.1959, he was appointed as Clerk-cum-Typist, whereas the petitioner is relying on Form-1 Certificate No.19 Section 1, Register of Births during the year 1961 of Velamakur Village, Tadipatri Taluq, Ananthapuram District wherein his date of birth is shown as 10.07.1961 as claimed by the petitioner. Thereafter, the Mandal Revenue Officer, Tadipatri Taluq conducted a detailed enquiry and submitted a report stating that the petitioner is the second issue of his parents and his date of birth is 10.07.1961 and the date of birth of his elder sister, namely S.Venkata Lakshamma is 02.11.1959.

The question that arises for consideration before this Court is that whether the enquiry report submitted by the Mandal Revenue Officer showing the petitioner's date of birth

as 10.07.1961 is correct or the date of birth that is recorded in SSC Certificate as 10.08.1959 is correct ?

We are of the considered opinion that for the above purpose, unless and until evidence is produced by the petitioner, neither the respondents nor this Court can establish the correctness of the petitioner's date of birth.

Hence, this Court, without going into the controversy, dispose of the writ petition giving liberty to the petitioner to approach competent Court of civil jurisdiction to get his date of birth declared. Thereafter, based on his correct date of birth, he may approach the respondents claiming his service benefits if any accrued therefrom. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

03.07.2017

SURESH KUMAR KAIT, J

U.DURGA PRASAD RAO, J

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