

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.11615 of 2016 and
W.M.P.No.10018 of 2016

R.Sadasivam

...Petitioner

Versus

- 1.The Director of School Education,
DPI Campus, College Road,
Chennai 600006
- 2.The Sub-Registrar,
Kammapuram,
Cuddalore District.
- 3.The Special Officer/The Managing Director,
Indcoserve, NLC Limited,
Neyveli.

....Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus or any other appropriate writ or order direction in the nature of writ of Mandamus, directing the 1st and 3rd respondent to change the date of birth of the petitioner in their records and allow the petitioner to continue in service till 30.11.2018 by accepting the judgment and decree made in OS No.25 of 2015 dated 03.03.2016 on the file of the Judicial Magistrate cum District Munsiff Court, Neyveli.

For Petitioner : Mr.S.Thirumavalavan

For Respondents : Mr.K.Karthikeyan,
Government Advocate for R1 & R2

Mr.Anand Gopalan,
for M/s.T.S.Gopalan & Co. for R3

O R D E R

The relief sought for in this writ petition is for a direction to direct the first and third respondents to change the date of birth of the petitioner in his records and allow the petitioner to continue in service till 30.11.2018 by accepting the judgment and decree made in O.S.No.25 of 2015 dated 03.03.2016 on the file of the Judicial Magistrate cum District Munsiff Court, Neyveli.

2.The grievance of the writ petitioner is that his date of birth was recorded in Service Register as 15.03.1958 instead of 01.11.1960. Therefore, the petitioner is losing the service for about two years. In this regard, the petitioner filed a Civil Suit before the learned Judicial Magistrate cum District Munsiff Court, Neyveli in O.S.No.25 of 2015 dated 30.04.2015 and the Civil Court passed a Decree on 03.03.2016, altering the date of birth of the writ petitioner as 01.11.1960. Thus, the writ petitioner is entitled for the benefit of the Decree granted by the competent Court.

3.The learned counsel appearing on behalf of the third respondent states that the writ petitioner was employed as a contract labourer during the year 1992. His date of birth was entered in his service records as 15.03.1958, based on the school records. Thus, the service records were maintained by the third respondent only based on the School records submitted by the writ petitioner at the time of his appointment. However, during the fag end of his service, the writ petitioner submitted an application seeking alteration of date of birth based on the Civil Court Decree now filed in the year 2015.

4.The learned Government Advocate also opposed the claim of the writ petitioner by stating that the service records of the writ petitioner was maintained by the respondents and as per the School Certificate, his date of birth is 15.03.1958. Further, it is informed that the writ petitioner had already attained the age of superannuation on 31.03.2016 and allowed to retire from the service. This being the factum, no further concession can be shown in respect of altering his date of birth.

5.This court is of an opinion that an employee, at the time of entering into service, submits his school records and based on the School records, the entries are made in the Service Register. Such entries made cannot be altered simply by filing a Civil Suit before the Civil Court. The date of birth entered in the School records long before are maintained by the writ petitioner. Admittedly, the date of birth in the School records were not altered for many years by the writ petitioner and the writ petitioner allowed the date of birth to remain in the

School records for number of years. During the fag end of his service, he filed a Civil Suit in the year 2015 and obtained an Ex-parte Decree and thereafter, submitted an application to the employer that his date of birth should be altered. The very idea and intention of the employee is unambiguous that he filed a Civil Suit only for the purpose of altering his date of birth. The date of birth of the writ petitioner is 01.11.1960 and if the error took place in the School records, then the petitioner ought to have altered the date of birth long before and soon after the School records were received by him. However, the same had not been done. However, the writ petitioner had taken place to alter his date of birth only during the year 2015 and he was allowed to retire from service on 31.03.2016.

6.This being the factum of the case, the claim of the writ petitioner for alteration of date of birth cannot have any merit consideration.

7.Accordingly the writ petition stands dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

mbi/kak
To

1.The Director of School Education,
DPI Campus, College Road,
Chennai 600006

2.The Sub-Registrar,
Kammapuram,
Cuddalore District.

3.The Special Officer/The Managing Director,
Indcoserve, NLC Limited,
Neyveli.

+1cc to Mr.T.S.Gopalan & CO, Advocate SR.No.63994
+1cc to Mr.S.Thirumavalavan, Advocate SR.No.64238
+1cc to Government Pleader SR.No.64191

W.P.No11615 of 2016

GMV (26/09/2018)