

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2018

CORAM

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR.

W.P.No.38461 of 2005

K. Duraisamy,
Village Administrative Officer,
N.Thottipalayam Village,
Namakkal Taluk,
Namakkal district.

... Petitioner

Vs

1. The Commissioner of Revenue Administration,
Ezhilaham, Chennai-600 005.
2. The District Revenue Officer,
Namakkal.
3. The Revenue Divisional Officer,
Namakkal.
4. The Tashildar,
Namakkal.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the third respondent to hold an enquiry by entertaining the application of the petitioner to change the date of his birth from 12.12.1947 to 13.12.1948 in his service records within a period as stipulated by this Court.

For Petitioner

: Mr.N.Manokaran

For Respondents

: Mr.K.Ravikumar,
Additional Government Pleader

O R D E R

The prayer sought for in this writ petition is for a Writ of Mandamus to direct the third respondent to hold an enquiry by entertaining the application of the petitioner to change the date of his birth from 12.12.1947 to 13.12.1948, in his service

records within a period as stipulated by this Court.

2. The short facts which are required to be noticed for the disposal of this writ petition are as follows:

The petitioner joined as Village Administrative Officer at Valaiyappati Village on 23.03.2001, pursuant to the appointment through selection made in this regard. His actual date of birth, according to him, is 13.12.1948. However, it has been wrongly entered in the Service Register as 12.12.1947. Therefore, in order to correct the date of birth, he made an application on 24.09.2005, by thus, within the statutory period of five years from the date of joining in service, he made the said application for change the date of his birth. The said application has to be enquired and the decision has to be made by the respondents. However no action was forthcoming from the respondents. Hence the petitioner has filed this writ petition with the aforesaid prayer.

3. Heard Mr.N.Manokaran, learned counsel appearing for the petitioner and Mr.K.Ravikumar, learned Additional Government Pleader appearing for the respondents.

4. It is no doubt that the petitioner joined in service on 23.03.2001. The order of the Tashildar, Namakkal, dated 27.03.2001, has made it clear that the petitioner has joined in service on 23.03.2001. It is the claim of the petitioner that he had made an application for change the date of his birth as 13.12.1948. In this regard, a copy of the application along with the postal receipt filed, would show that the said application has been sent on 24.09.2005, through register post with acknowledgment due and the same was received by the third respondent on 26.09.2005. The copy of the application along with the postal receipt as well as the postal acknowledgment card filed by the petitioner discloses that the application has been sent on 24.09.2005, thereby within the statutory period of the five years that application had been made. When that being the position, this Court finds no impediment to the respondents to consider the said application on merits and in accordance of law, and accordingly, the decision can be taken.

5. In the mean while, the petitioner has retired from service on attaining superannuation on 31.12.2005. Therefore, if at all the enquiry was made by the respondents and decided anything in favour of the petitioner to correct the date of birth, subsequent service benefits with regard to the financial aspects and the retirement and pension benefits shall be conferred on him. Otherwise in the enquiry the respondents decided against the petitioner, with regard to the plea of the change of his date of birth, it is for the petitioner to attack the order in the manner known to law.

6. Therefore considering all these aspects, this Court is inclined to pass the following orders :-

(i) The respondents especially the third respondent is directed to conduct an enquiry on the application of the petitioner dated 24.09.2005, with regard to his plea for alteration of date of birth from 12.12.1947 to 13.12.1948 and accordingly decide the same on merits, within the period of three months from the date of receipt of a copy of this order.

(ii) Once it is decided, a copy of the decision shall be communicated to the petitioner and accordingly consequential benefits, if any, the petitioner is entitled to get, shall be conferred on him.

7. With these directions, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

rts/jrs

To

1. The Commissioner of Revenue Administration, Ezhilaham, Chennai-600 005.
2. The District Revenue Officer, Namakkal.
3. The Revenue Divisional Officer, Namakkal.
4. The Tashildar, Namakkal.

+1cc to Mr.N.Manoharan, Advocate SR.No.71861

+1cc to Government Pleader SR.No.72428

W.P.No.38461 of 2005

CNR(CO)

GMV(19/11/2018)



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