

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.A.No.1509 of 2018

V.Selvaradjou

...

Appellant/Petitioner

-vs-

1.The Secretary to Government,
Local Administration Department,
Chief Secretariat, Puducherry.

2.The Director,
Local Administration Department,
Puducherry.

3.The Commissioner,
Oulgaret Municipality,
Puducherry.

... Respondents/respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent,
against the order passed by this Court in W.P.No.13848 of 2014
dated 26.09.2016.

Prayer in W.P.No. 13848 of 2014: Writ petition filed under
Article 226 of the constitution of India praying for issuance of
a Writ of Certiorarified Mandamus Calling for the records
relating to the Order dated 22.4.2014 in Proceedings No.1-567/
Estt(3)/ OM/2012 Puducherry on the file of the Commissioner
Oulgaret Municipality Puducherry the third respondent herein
and quash the same and consequently direct the respondents to
alter date of birth of the petitioner as 6.8.1958 instead of
31.3.1954 in the service records and extend all service benefits.

For Appellant :: Mr.P.Suresh

For Respondents:: Mr.Syed Mustafa, Spl.GP(Pondy)

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The case of the appellant is that he joined the Government
service as Sanitary Worker on 09.09.1980 in Oulgaret Commune

Panchayat, Puducherry (now the Oulgaret Commune Panchayat has been upgraded as Oulgaret Municipality). When he joined the service, he submitted all the documents and testimonials for the purpose of recording the family particulars and other details in his service book, as per the Rules. The appellant was born on 06.08.1958 at Bahour and the same was registered before the Registrar of Birth and Death, Bahour Commune Panchayat, Bahour, Puducherry, under Section 12 & 17 of the Registration of Birth and Death Act, 1969. The appellant's father's name is Virappane and his mother's name is Vedhavalli. His date of birth was wrongly recorded in the Service Record as 31.03.1954 by the authorities, instead of 06.08.1958, since the wrong date of birth was entered in his SSLC Certificate. After entering into service, in order to rectify the date of birth, the appellant has submitted a requisition letter on 09.06.1982 along with the original Birth Certificate issued by the Commissioner, Bahour Commune Panchayat, which is in consonance with the provisions contained under Note (6) below FR 56, the O.M.No.19017/2/92-Estt (A), dated 19.05.1993 of the Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel and Training, New Delhi. The appellant's letter dated 09.06.1982 for correction of date of birth submitted to the Office Manager, Oulgaret Commune Panchayat was well within five years from the entry into Government Service as required by the Rules. After submission of the appellant's letter dated 09.06.1982, there was no communication/order from the authorities concerned. As such, the appellant was under the bonafide impression that his date of birth was corrected in accordance with the birth certificate issued by the Bahour Commune Panchayat. While so, on 1st July, 2008, the Establishment Section of the Oulgaret Municipality notified the names of the individuals who were going to retire on superannuation in the year 2014, wherein the appellant's name was also found place. When the appellant approached the concerned authority, he was informed that his date of birth was recorded as 31.03.1954. Thereafter, the appellant made several representations, stating that his date of birth as per the birth certificate issued by the Commissioner, Bahour Commune Panchayat is 06.08.1958 and accordingly, his date of birth has to be corrected as 06.08.1958 instead of 31.03.1954 in the service register. But, the third respondent has passed an order on 22.04.2014 rejecting the claim of the appellant.

2. With the above background, the appellant filed a writ petition in W.P.No.13848 of 2014 before this Court praying to quash the order dated 22.04.2014 in proceedings No.1-567/Estt. (3)/OM/2012, Puducherry, passed by the Commissioner, Oulgaret Municipality, Puducherry, the third respondent herein and to consequently direct the respondents to alter the date of birth of the appellant as 06.08.1958 instead of 31.03.1954 in the service records and extend all service benefits.

3.The specific submission that was put forth by the learned counsel for the appellant before the writ Court is that when the appellant made his request for making correction in the service register with regard to his date of birth within a statutory period of five years, the respondents ought to have considered the request of the appellant favourably.

4.Considering the submissions made on either side, the learned single Judge dismissed the writ petition by order dated 26.09.2016. Hence this appeal.

5.The learned counsel for the appellant has made his submissions in the similar lines as argued before the learned single Judge in W.P.No.13848 of 2014.

6.The learned Special Government Pleader appearing for the respondents has submitted that the learned single Judge has considered the matter in proper perspective and has passed the impugned order and hence the same does not require any interference in the hands of this Court.

7.Heard the learned counsel on either side and perused the materials available on record.

8.It is the finding given by the learned single Judge that absolutely no document has been produced by the appellant to show that he had given a representation on 09.06.1982 to the respondents ie., within a period of five years from the date of joining the service. Further, it appears that he has not followed up the matter and only at the fag end of his career, he made a representation for correction of date of birth, ie., after a period of 27 years of service. It also appears that the appellant had attained the age of superannuation on 31.03.2014 itself. Only in those circumstances, this Court held that that the prayer sought for by the appellant in the writ petition, cannot be entertained. We are not inclined to interfere with the impugned order passed by the learned single Judge as the findings have been rendered on facts.

9.In view of the above stated circumstances, the writ appeal stands dismissed. No costs.

Sd/-

Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

KM

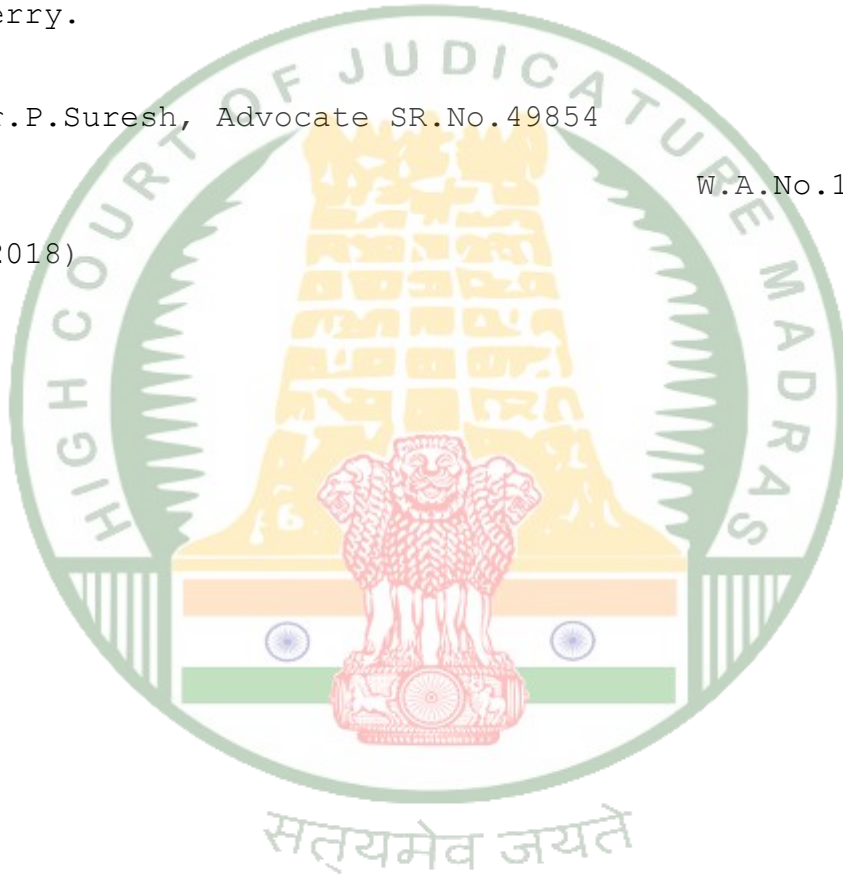
To

- 1.The Secretary to Government,
Local Administration Department,
Chief Secretariat, Puducherry.
- 2.The Director,
Local Administration Department,
Puducherry.
- 3.The Commissioner,
Oulgaret Municipality,
Puducherry.

+1cc to Mr.P.Suresh, Advocate SR.No.49854

W.A.No.1509 of 2018

MR (CO)
GN (30/08/2018)



WEB COPY