

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.3.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.Nos.614 and 617 of 2018
and
C.M.P.Nos.5983, 5984, 5989 and 5990 of 2018

S.Ponsingh Mohanram ... Appellant in both appeals

Versus

1. The Secretary to Government
Labour & Employment Department,
Fort St. George, Chennai 600 009.
2. The Director of Industrial
Safety & Health, Chennai 600 014.
3. The Principal Commissioner &
Commissioner of Revenue Administration
Chepauk, Chennai 600 005.
4. The Secretary,
Tamil Nadu Public Service Commission,
Chennai 600 001.
5. K.Kaliannan .. Respondents in both appeals

Prayer:

Writ Appeals filed filed under Clause 15 of the Letters Patent against the order dated 17.1.2018 passed in W.P.Nos.37855 of 2015 and 24197 of 2017 on the file of this court.

W.P.Nos.37855 of 2015:-

Writ petition filed under article 226 of the Constitution of India praying this court for the issuance of Writ of Certiorari, calling for the records of the 1st respondent in connection with the impugned order passed by him in G.O(D).No.37, Labour & Employment (M1) Department, dated 10.07.2015 and quash the same.

Prayer in WP.No.24197 of 2017:-

Writ Petition filed under article 226 of the Constitution of India, Praying for the issuance of a Writ of Quo warranto, directing the 5th respondent requiring him to show cause under what authority he remains in Government Service and also hold the office of the Director of Industrial safety & Health Chennai-600 032 (in-charge) and continue in service beyond 31.05.2017 i.e. after attaining superannuation date as per the date of birth entered into service register at the time of entering Government service.

For appellant : Mr.K.Venkataramani, Senior Counsel
for Mr.A.Edwin Prabakar

For RR1 to 3 : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

Ms.P.Rosekamalam,
Government Advocate

COMMON JUDGMENT

(Judgment of the court was made by RMT.TEEKAA RAMAN, J.)

The unsuccessful petitioner in the writ petitions is the appellant.

2. The writ petitions had been filed seeking to quash the impugned order by which the claim of the contesting fifth respondent to alter his date of birth from 25.5.1959 to 20.9.1960 was approved and for issuance of Quo Warranto against the contesting respondent.

3. The learned Single Judge, after hearing both the parties, found that in respect of the contesting respondent, the well reasoned order passed by a Division Bench in W.P.No.28968 of 2004, giving a direction for altering the date of birth, has been confirmed in the Review Petition No.109 of 2016 and also by the Honourable Supreme Court in S.L.P.Nos.3028 and 3029 of 2017 and hence, it is highly inappropriate for the appellant to once again resort to this court.

4. The learned Senior Counsel appearing for the appellant would submit that the Supreme Court has confirmed the decision of the High Court only on the point of delay and the appellant came to know about the alteration made only in the year 2015 and therefore, there is no delay on the part of the appellant.

5. However, having regard to the fact that the Supreme Court has confirmed the view taken by the Division Bench of this Court, though on the ground of delay on the part of the appellant, but, still, in our opinion, the order of the Apex

Court has become final in the matter and therefore, we do not find any reason to interfere with the order passed by the learned Single Judge. Moreover, the appellant had unsuccessfully questioned the order passed by the Division Bench by filing Review Application No.109 of 2016 and hence, he cannot canvas the same issue in the present proceedings.

6. We do not find any reason to re-open the matter which has already been settled by the Apex Court by observing that there is delay on the part of the appellant. The appellant is at liberty to approach the Apex Court against this order, if he is so advised. The writ appeals are dismissed. No costs. The connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Secretary to Government
Labour & Employment Department,
Fort St. George, Chennai 600 009.
2. The Director of Industrial
Safety & Health, Chennai 600 014.
3. The Principal Commissioner &
Commissioner of Revenue Administration
Chepauk, Chennai 600 005.
4. The Secretary,
Tamil Nadu Public Service Commission,
Chennai 600 001.

+4ccs to Mr.A.Edwin Prabakar, Advocate, S.R.No.23726, 23727
+1cc to the Government Pleader, S.R.No.24302, 24328

W.A.No.614 & 617 of 2018

NRL(CO)
CS/11/04/18