

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.05.2018

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN
and
THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.11547 of 2018 and
W.M.P.No.13497 of 2018

P.Ranjith Kumar

... Petitioner

Vs

The Member Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, Chennai 600 003.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondent to treat the date of birth of the petitioner as 28.08.1978 by permitting the petitioner to register the application for the post of Civil Judge based on the Notification No.08/2018 dated 09.04.2018 and to pursue the selection process pending disposal of the suit in O.S.No.44 of 2016 on the file of the District Munsif Court at Dharmapuri in pursuance of the decree and judgment dated 16.03.2018 in A.S.No.26 of 2017 on the file of Sub Court, Dharmapuri.

For Petitioner : Mr.C.Prabakaran
For Respondent : Mrs.C.N.G.Niraimathi

O R D E R

Heard Mr.C.Prabakaran, learned counsel for the petitioner and Mrs.C.N.G.Niraimathi, learned standing counsel appearing for the respondent.

2. The writ petition is filed seeking for a direction to the respondent to treat the date of birth of the petitioner as 28.08.1978 and permit him to register the application for the post of Civil Judge.

3. According to the petitioner, he was born on 28.08.1978. But, while admitting him in the school, the date of birth was wrongly given as 22.05.1976. Recently, the petitioner came to know from the astrology book that his original date of birth is 28.08.1978. Hence, he filed a suit before the District Munsif

Court, Dharmapuri in O.S.No.44 of 2016, seeking for a declaration, declaring his date of birth as 28.08.1978. The said suit was dismissed by a judgment and decree dated 25.04.2017. Challenging the said judgment, the petitioner filed an appeal in A.S.No.26 of 2017, on the file of the Sub Court, Dharmapuri. The Appellate Court had set aside the judgment and decree of the Trial Court and remanded the matter to the Trial Court for fresh consideration and the suit is now pending.

4. In the above circumstances, the petitioner has filed the present writ petition on the ground that now the suit for declaration of his date of birth as 28.08.1978 is pending before the Trial Court and there is a bright chance of the suit being decreed in his favour, hence his age may be treated as 28.08.1978.

5. At the outset, when the suit is pending before the Sub Court, Dharmapuri, seeking for a declaration to declare his date of birth as 28.08.1978, the prayer sought for in the writ petition cannot be granted and the present writ petition is nothing but an abuse of process of law. The date of birth of the petitioner recorded in the school records could alone be considered as his date of birth as on today. Unless the suit is decreed in his favour, the petitioner cannot seek any relief to consider his date of birth as 28.08.1978 by way of a writ petition.

6. In the above said circumstances, the writ petition is liable to be dismissed as not maintainable and accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

gsk/svki

To

1. The Member Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, Chennai 600 003.
2. The District Munsif, Dharmapuri.

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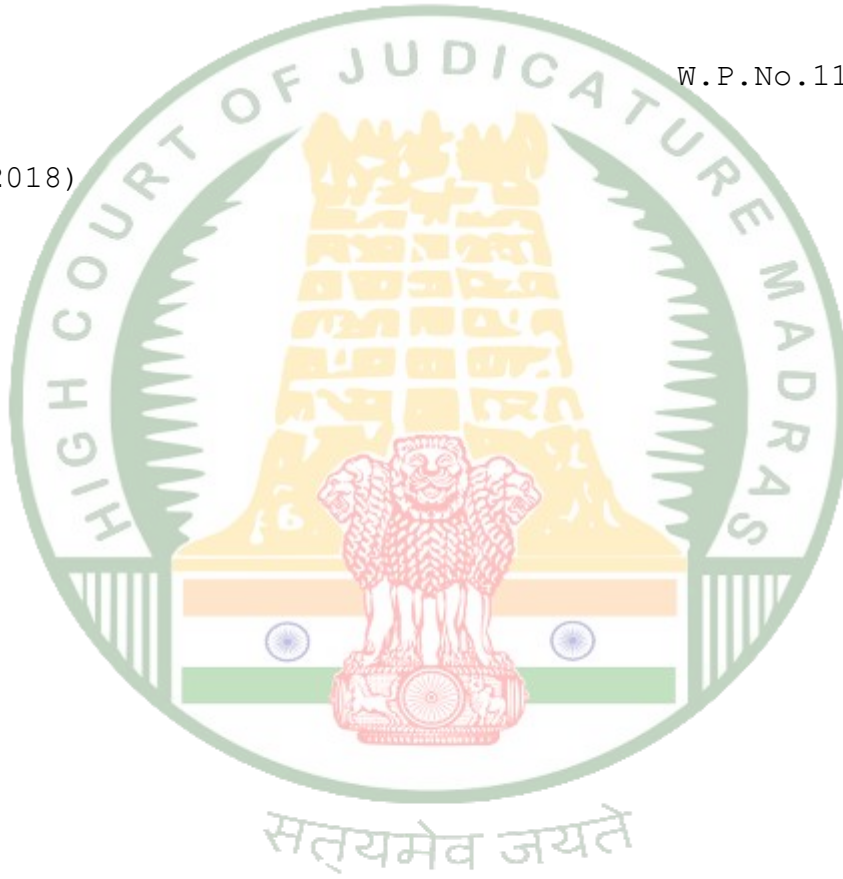
3. The Subordinate Judge, Dharmapuri

+1 CC to Mr.C. Prabakaran, Advocate sr 33140.

+1 CC to Govt. Pleader sr 33191.

W.P.No.11547 of 2018

SP(15/05/2018)



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