

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 27.11.2018

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

W.P. NO. 12835 OF 2018

AND

W.M.P. NOS. 15074 & 15075 OF 2018

P.Muthiah

.. Petitioner

- Vs -

1. The Secretary to Government of Tamil Nadu
School Education Department
Fort St. George, Chennai - 9.
2. The Prl. Secretary & Commissioner
for Revenue Administration
Chepauk, Chennai - 5.
3. The Director of School Education
DPI Compound, College Road
Chennai - 6.
4. The Joint Director (School Education)
DPI Compound, College Road
Chennai - 6.
5. The Chief Educational Officer
Karur Post & District.
6. The Chief Educational Officer
Trichy.
7. The Headmaster
Government High School
Thethur Post, Trichy District.
8. The Headmaster
Government High School
G.Udaiyarpatty, Karur District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records relating to the proceedings of the 4th respondent dated 08.05.2018 in Na.Ka.

No.109695/C3/E2/2010 and quash the same and consequently direct respondents 2 to 4 to process and pass final orders on the application of the petitioner dated 9.6.2010 on merits enabling the petitioner to continue in service till 31.5.2020 and pay all consequential service and monetary benefits.

For Petitioner : Mr. P.I.Thirumoorthy

For Respondents: Ms. P.Kavitha, GA (Edn.)

ORDER

The impugned order dated 8.5.2018 passed by the 4th respondent is under challenge in the present writ petition.

2. The petitioner is working as B.T. Assistant (Maths) in the 7th respondent High School. Though the correct date of birth of the petitioner is 4.9.1961, however, the same has been wrongly entered in the service register as 11.2.1960 based on the oral version given by the parents of the petitioner. To have the date of birth corrected in the service records, the petitioner approached the respondents well within the time of five years by filing the necessary application on 09.06.2010. However, the same has been rejected by the 4th respondent on the ground that the application does not contain the office seal. Therefore, the petitioner has filed the present petition.

3. The 4th respondent has rejected the application of the petitioner taking into account Section 59 (3) of the Tamil Nadu Government Servants (Conditions of Services) Act, 2016, which mandates receipt of application for correction in date of birth to be made within a period of five years from the date of entering into service along with the necessary enclosures. It is further evident from the impugned order that the application has been rejected for want of endorsement of the office to prove receipt of application within the prescribed period of five years.

4. It is the claim of the department that the original application did not contain the office seal and, therefore, the application of the petitioner for correction of date of birth was rejected. Affixing of office seal is the responsibility of the concerned office and not the responsibility of the petitioner.

5. However, to ascertain the veracity of the submissions and the date of filing of the petition, this Court directed the respondents to produce the record. Pursuant to the order passed by this Court, the records were produced, relating to the various communications between the various respondents. A

perusal of the file reveals that the main reason for rejection of the application stems from the non-affixture of seal in the original application submitted by the petitioner. Lapse on the part of the concerned authority in not affixing the seal on the original application cannot be put against the petitioner to defeat his legitimate claim. In such circumstances, the proceedings of the 4th respondent rejecting the claim of the petitioner is hereby liable to be set aside.

6. Accordingly, the impugned order passed by the 4th respondent is set aside. The writ petition is disposed of directing respondents 2 to 4 to process the application of the petitioner and pass final orders on the application of the petitioner dated 9.6.2010 on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order without insisting for office seal to be affixed on the original application of the petitioner. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Secretary to Government of Tamil Nadu
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for Revenue Administration
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5. The Chief Educational Officer
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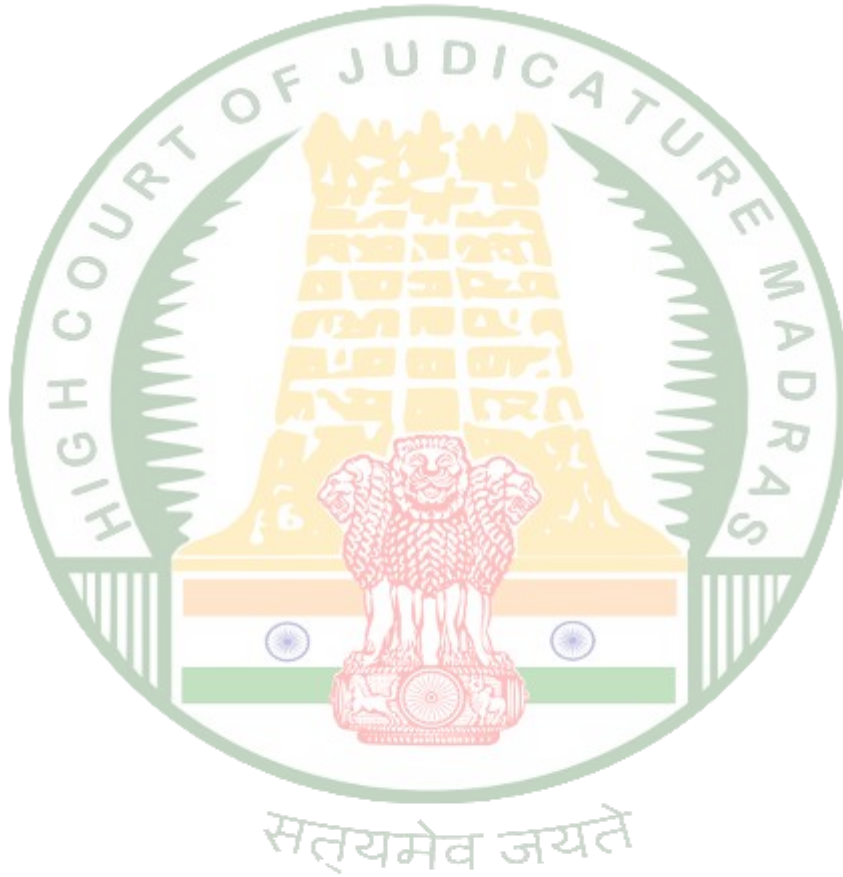
6. The Chief Educational Officer
Trichy.

+1 cc to The Government Pleader, Sr.No.81372

+1 cc to Mr.P.I.Thirumoorthy, Advocate Sr.No.81140

W.P. NO.12835 OF 2018

GMR(CO)
CSL/08.01.2019



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