IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.02.2018
CORAM:
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A.No.2850 of 2012
and
M.P.No.1 of 2012

1.The Commissioner
Revenue Administration
Chepauk
Chennai-5.

2.The Collector
Salem District
Salem.

3.The Revenue Divisional Officer
Mettur, Salem District.

4.The Tahsildar
Mettur, Salem District. ... Appellants/Respondents

Vs

K.C.Kalaikovan ...Respondent/Petitioner

Prayer:- Writ Appeal filed under Clause 15 of Letter Patent Act, to set aside the order passed in W.P.No.6143 of 2008 dated 20.01.2011.

WP.No.6143 of 2008:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent and in his proceedings Na.Ka. 3467 - 2004 (E) dated 7.2.2000 and quash the same and to direct the respondents to alter the petitioners date of birth in petitioners service record as 28.01.1952.

For Appellants : Mr.I.Sathish
Additional Government Pleader

For Respondent : Mr.B.Ram Prabhu
for Mr.S.Kumaresan

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The respondent, within a period of five years from the date of entry into service, submitted application for alteration of his date of birth taking into account the extract of the birth issued by the Special Tahsildar, Mettur indicating that he was born on 28 January, 1952. The request was rejected on the ground that it would not be possible to verify the actual date of birth on account of the non-registration of two of the other siblings born to his parents. The writ petition filed by the respondent challenging the order passed by the Revenue Divisional Officer, Mettur was allowed by the learned Single Judge. The order is under challenge at the instance of the State.

2. We have heard the learned Additional Government Pleader on behalf of the appellants. We have also heard the learned counsel for the respondent.

3. The respondent was born on 28 January, 1952. His birth was registered before the Sub Registrar, Mettur. The registration was made on 01 February, 1952. The names of the parents were correctly shown in the birth register. However, in the school records, the birth was wrongly recorded as 23 January, 1951.

4. The respondent entered the service as Village Administrative Officer on the strength of the SSLC book, which shows that he was born on 23 January, 1951. The respondent joined the service on 06 December, 1995. The respondent within a period of five years submitted the application on 27 December, 1999. The Government Servants are eligible to make an application for correction of birth within a period of five years from the date of entry into service. Therefore, it is clear that the application made by the respondent was within the time permitted by the Rules.

5. The application was rejected by the Revenue Divisional Officer, Mettur, primarily on the ground that there were nine children born to his parents, but, only the birth of three children was registered before the Registering authority. According to the third appellant, in view of the non-registration of the birth of the other children born to his parents, it was not possible to confirm as to whether he was actually born on 28 January, 1952. There are other flimsy reasons also given by the third appellant for rejecting the application.

6. The respondent produced the extract given by the registering authority in support of his plea that he was actually born on 28 January, 1952. The appellants were not having any other documents to disprove the contention taken by the respondent. Merely because the parents have not registered the birth of other children, it cannot be said that the respondent was not born on 28 January, 1952. The appellants would be justified in their contention, in case, the birth entry was altered subsequently. The entry itself was made on 01 February, 1952. Therefore, it is clear that the birth was registered before the Sub Registrar within the cut off period. The third appellant appears to have invented reasons to reject the application submitted by the respondent. The learned Single Judge taking into account the background facts correctly allowed the writ petition. We do not find any error or illegality in the said order warranting interference.

The intra court appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gms

To
1.The Commissioner, Revenue Administration,
Chepauk,Chennai-5.

2.The Collector,Salem District,Salem.

3.The Revenue Divisional Officer, Mettur, Salem District.

4.The Tahsildar, Mettur, Salem District.

+1 cc to Mr.S.Kumaresan Advocate sr 10132

W.A.No.2850 of 2012

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