

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.06.2018

Coram

The Honourable Mr.Justice M.DHANDAPANI

W.P.No.25267 of 2006

P.Gandhimathi

.... Petitioner

Vs

1.The Director of Social Welfare
Chennai 600 005.

2.The Project Officer,
Integrated Child Development Scheme No.1,
Salem - 7.

.... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating the orders in (1) Pro. No.1312/2005 dated 30.6.2005 and (2) Pro. Na.Ka.No. 312/2005 dated 27.1.2006 of the second Respondent quash the same and issue consequential directions to allow the petitioner to continue in as Noon Meals Assistant till the age of superannuation i.e.30.4.2015 and to direct the respondents to regularise the petitioners service in the post of Noon Meals Assistant from 30.6.2005 with all consequential service and monetary benefits.

For Petitioner : Mr.M.Ravi

For Respondents : Mr. K.Ravikumar, AGP

ORDER

Petitioner has filed the present writ petition seeking to call for the records of the second respondent and to quash the same and to issue consequential directions by allowing the petitioner to continue in service as Noon Meals Assistant till she attains superannuation and further to direct the respondents to regularise her service.

2. The brief facts leading to filing of this writ petition is as follows:

Petitioner joined in the services of the second respondent as Noon Meals Assistant at Salem during the year 1982 and has been rendering service without any stigma. Whiles, the second respondent, by its proceedings dated 30.06.2005 had stated that the petitioner is being relieved on retirement on attaining the age of superannuation. It is the further case of the petitioner that, she was only 50 years at the time of issuance of proceedings of the second respondent and she had been made to prematurely retired from service. It is her further case that, her original date of birth is 08.04.1955 whereas the second respondent had entered in the service register as 03.06.1947. Petitioner also approached the respondents by way of representation along with the age certificate from the competent authority, however, the same has not been considered. Hence, petitioner filed an appeal before the first respondent and an writ petition before this Court. This Court in W.P.No.35070 of 2005, had directed the authorities to dispose of the appeal filed by the petitioner, on merits and in accordance with law.

3. As per the directions of this Court, the respondent passed the present impugned order rejecting the appeal and refused to extend the service of the petitioner. Against the said order, the petitioner has filed the present writ petition.

4. Learned counsel appearing for the petitioner would submit that the petitioner is illiterate and she was not aware of the wrong entry of her date of birth in the records of the second respondent and only at the time of issuance of the proceedings of the second respondent it came to light and immediately, she filed an appeal before the authority. However, without considering her case, the respondents had rejected the appeal which is illegal.

5. Learned Additional Government Pleader by relying upon the counter affidavit would submit that the contention of the petitioner is unacceptable since the entering of date of birth in the service register is only based on the oral admission of the person by the second respondent. The retirement date is fixed based on the entry made in the service register. No age proof had been shown by the petitioner neither at the time of entering into service nor while filing the appeal. For illiterate candidates, while entering the age in the service register, in the absence of any records, the competent medical officer will determine the age based on the medical records. Hence, the order impugned in the writ petition needs no interference from this Court.

6. I have considered the rival submissions of both the counsel and have perused the records.

7. Petitioner had been appointed as Noon Meal Assistant and at the time of her appointment, her date of birth had been entered in the Service Register as 03.06.1947. According to the respondent only based on the oral admission of the petitioner, the date of birth had been entered in the service register. The Service Register had been duly accepted by the petitioner. Petitioner has not taken any steps to correct her date of birth thorough out her service with the respondents. The respondent had informed the petitioner orally about her date of retirement from service. Petitioner had not submitted any written representation for changing the date of birth in the service register. Petitioner has filed an appeal before the competent authority only after her retirement from service. This court, in the earlier writ petition had directed the respondents to consider the appeal filed by the petitioner on merits and in accordance with law. Even while entertaining the appeal, no proof had been let in by the petitioner with regard to the original date of birth in the service register. Hence, the respondents have rightly rejected the appeal. In the absence of any proof for the claim made by the petitioner, the normal course of action as per government service rules made on the part of the respondents cannot be said to be unsustainable.

8. I do not find any merit in the writ petition seeking to quash the order of the respondents. Accordingly, the writ petition fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

smi

To

1.The Director of Social Welfare
Chennai 600 005.

2.The Project Officer,
Integrated Child Development Scheme No.1,
Salem - 7.

+1cc to Government Pleader in sr.no.42279

W.P.No.25267 of 2006

kji(co)
nr 20/07/2018



WEB COPY