



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
RESERVED ON : 22.11.2018

DELIVERED ON : 26.11.2018

CORAM:

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

**W.P(MD)No.14497 of 2018**  
**and**  
**W.M.P(MD)No.13072 of 2018**

C.Markandan

.. Petitioner

Vs.

1. The District Collector,  
Madurai Collectorate,  
Madurai - 625 020.
2. The District Revenue Officer,  
Madurai Collectorate,  
Madurai - 625 020.
3. The Revenue Divisional Officer,  
Usilampatti Division,  
Usilampatti,  
Madurai District.
4. The Tahsildar,  
Perayur Taluk Office,  
Perayur, Madurai District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of the third respondent vide his letter in Na.Ka.No.2696/2018/A1 dated 30.04.2018 and quash the same as illegal and consequently directing the respondents to allow the petitioner to continue as VAO of Kanthuvarpatti and pass such further or other orders.

For Petitioner

: Mr.S.Balasubramanian

For Respondents

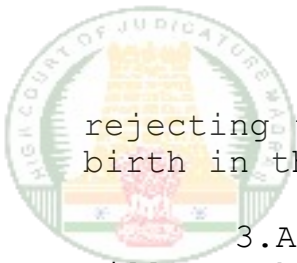
: J.Gunaseelan Muthiah,  
Additional Government Pleader.

**ORDER**

Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader representing the respondents.

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2.The petitioner herein seeks a writ of certiorarified mandamus to quash the proceedings of the third respondent herein



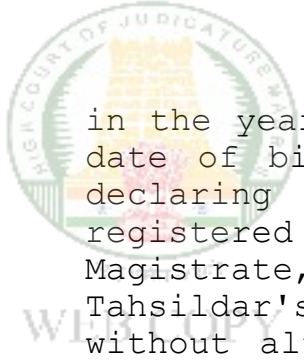
rejecting the representation of the petitioner to alter his date of birth in the service record as 23.03.1961 instead of 28.01.1958.

3. According to the petitioner herein, he was recruited as Village Thalayari as per the order of the Tahsildar, Thirumangalam dated 17.03.1983 and joined service as Village Thalayari of Muthu Nagaiahpuram on 20.03.1983. He produced his school transfer certificate to the authorities to show his date of birth as 23.03.1961. However, in the service register his date of birth has been recorded as 28.01.1958 instead of 23.03.1961. This error was came to his knowledge only in the year 2015. Immediately after that he gave an application for change of his date of birth in the service record to the Tahsildar, the fourth respondent herein. Considering his request for change of date of birth, the Tahsildar rejected the plea citing the Rule that such a request should have been made within five years from joining service and since request for change of date of birth has been made beyond the period prescribed, under the Rule his request cannot be considered. Thereafter, the petitioner herein has given representation to the first respondent on 25.01.2016. Meanwhile, he was promoted as VAO on 13.10.2016. On 05.04.2018, through his lawyer, the petitioner has sent a notice stating that even at the time of joining the service, he has declared his date of birth as 23.03.1961, however in the service record, it has been wrongly recorded as 28.01.1958. Therefore, the date of birth in the service record is to be altered as 23.03.1961.

4. In support of his submission, the writ petitioner relies upon his SSLC certificate, the order passed by the learned District Munsif cum Judicial Magistrate, Peraiyur dated 26.05.2015 and the birth certificate issued pursuant to the order passed by the learned District Munsif cum Judicial Magistrate, Peraiyur. Further he also relies upon the promotion order given to him as VAO considering his date of birth as 23.03.1961.

5. The learned Additional Government Pleader representing the respondents would submit that the petitioner has declared his date of birth as 28.01.1958 on the date of joining service as Village Thalayari. After lapse of 32 years by getting an order from the learned District Munsif cum Judicial Magistrate, Peraiyur, he has sought for alteration of his date of birth. Suppressing the fact that his date of birth as per the service record is 28.01.1958, hee has sought for promotion as VAO and the same was erroneously given. The said fact when brought to the notice of the third respondent, the impugned order has been passed, wherein the petitioner has been relieved from service on attaining superannuation without prejudice to the departmental proceedings contemplated to be initiated against the petitioner herein for suppression of fact.

6. On consideration of the rival submissions and the impugned order in the light of the Service Rules governing alteration of date of birth, this Court finds that the petitioner though joined service



in the year 1983, till 2015 had not requested for alteration of his date of birth. All of a sudden he has approached the Court for declaring his date of birth as 23.03.1961 and the same to be registered in the relevant record. Obtaining an order from the Magistrate, he has got his date of birth registered at the Tahsildar's Office, Peraiyur on 30.06.2015. Thereafter, even without altering the date of birth in his service record, he has mentioned his date of birth as 23.03.1961 and got promoted as VAO from the post of Village Thalayari.

7.The age of retirement for Village Thalayari is 60 years whereas the age of retirement for VAO is 58 years. The petitioner herein ought to have been retired as Village Thalayari on 31.01.2018 on attaining the age of superannuation of 60 years. Since he has falsely represented his date of birth as 23.03.1961, while considering for the post of VAO, he has been wrongly promoted as VAO on 13.10.2016. The age of superannuation for VAO is 58 years. On the date of his promotion as VAO, as per his service record, he has crossed the age of superannuation. However, by false representation, the petitioner herein has been given promotion as VAO. Despite rejection of the petitioner's request for altering the date of birth, vide O.M.No.11780/15/A2, dated 22.09.2015, issued by the Tahsildar, Peraiyur the petitioner was given promotion by mistake, which cannot be taken advantage by him and seek for alteration of date of birth.

8.The impugned order has specifically referred Tamil Nadu Government Servants (Condition of Service) Act, 2016, wherein it is stated that a Government Servant cannot seek for alteration of date of birth after expiry of five years from the date of joining service. The document relied by the petitioner namely, duplicate copy of the School Leaving Certificate and the order passed by the learned Magistrate cannot have any persuasive value for the authorities to alter the date of birth in the service record. Since these two documents are not relevant for altering the date of birth at the fag end of the service long after the prescribed period for altering the date of birth found in the service register, this Court finds no merit in the writ petition and hence, this writ petition is dismissed. No order as to costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-  
Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The District Collector,  
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Usilampatti,  
Madurai District.

4. The Tahsildar,  
Perayur Taluk Office,  
Perayur, Madurai District.

+1cc to SPL.Govt.Pleader, Sr.No.97086

+1cc to Mr.S.Balasubramanian, Advocate Sr.No.96954

SMN

KM/SV/SAR2/17.12.2018/4P/7C

**ORDER MADE IN**  
**W.P (MD) No.14497 of 2018**  
**and**  
**W.M.P (MD) No.13072 of 2018**  
**26.11.2018**