

**HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
&
HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

WRIT PETITION No.16450 OF 2004

ORDER: (per Hon'ble Sri Justice Abhinand Kumar Shavili)

1. This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to and connected with the order dated 5.5.2004 passed in O.A.No.4721 of 1999 by the A.P. Administrative Tribunal, Hyderabad.

2. Heard Sri J.R. Manohar Rao, learned Counsel for the petitioner and the learned Government Pleader for Services.

3. The case of the petitioner is as follows:

(i) The petitioner herein joined on 29.1.1990 as probationary Deputy Tahsildar in Guntur District and she filed an application on 22.2.1990 for recording her date of birth as 18.10.1959 instead of 15.6.1958 and she also filed another application on 23.4.1990 with similar request. The matter was referred to the Commissioner of Land Revenue. The Commissioner issued orders to the District Collector on 21.1.1991 to take action for recording the date of birth of the petitioner as per rules as he is the competent authority. While so, the District Collector issued proceedings dated 14.9.1992 for recording the date of birth of the petitioner as 18.10.1959, while

directing the Revenue Divisional Officer, Tenali to alter the date of birth from 15.6.1958 to 18.10.1959, as he is the custodian of the service register, and pursuant to the same, the Revenue Divisional Officer, Tenali, issued proceedings dated 31.10.1992 altering the date of birth from 15.6.1958 to 18.10.1959. Accordingly, the date of birth of the petitioner was also recorded in the service book as 18.10.1959.

(ii) Subsequently, when the petitioner approached the Commissioner of Land Revenue to make necessary corrections as per the proceedings of the District Collector dated 14.9.1992, as to her date of birth, the Commissioner referred the matter to the Government vide letter dated 20.10.1997, upon which the Government issued orders on 14.7.1998 holding that the date of birth of the petitioner as determined on the basis of the school records and entered in the service records shall not be altered except in the case of bonafide clerical error, while directing the Commissioner of Land Revenue to take necessary action, basing on which, the Commissioner issued proceedings dated 21.7.1998 rejecting the request of the petitioner. Thereafter, the District Collector issued proceedings dated 30.1.1999 informing about the proceedings issued by the Commissioner of Land Revenue. Then, the petitioner submitted a representation to the Government bringing to the notice that her date of birth was already recorded in

the year 1992, and requesting to issue suitable orders. But, the Government issued memo dated 4.6.1999 rejecting her representation. Aggrieved by the proceedings dated 21.7.1998 issued by the Commissioner and the consequential order of the District Collector, dated 30.1.1999 and the Government Memo dated 4.6.1999, the petitioner filed O.A.No.4721 of 1999 before the Tribunal. The Tribunal dismissed the O.A. Challenging the same, the petitioner filed this writ petition.

4. The learned Counsel for the petitioner contends that the petitioner made an application within one month of her joining into service as stipulated under Rule 2(1) of A.P. Public Employment (Recording and Alteration of Date of Birth) Rules, 1984 (for short, 'the Rules'), but the authorities concerned failed to determine the date of birth of the petitioner within the time specified under Section 2(3) of the Rules, however, the District Collector issued the proceedings on 14.9.1992 after conducting enquiry under the Rules, accepting the request of the petitioner for correction of her date of birth. He further contends that the District Collector after conducting an enquiry in the year 1992 found that the marriage of the parents of the petitioner took place on 11.5.1958 and the petitioner was born on 18.10.1959, and then, issued proceedings dated 14.9.1992 to alter the date of birth of the petitioner from 15.6.1958 to 18.10.1959. He further contends that after conducting

the enquiry the District Collector issued proceedings dated 14.9.1992 determining the date of birth of the petitioner as 18.10.1959 and the said proceedings are valid under the Rules, and they became final and therefore, the subsequent orders of the Commissioner of Land Revenue, District Collector and the Government, which were issued after a lapse of six years, are liable to be set aside.

5. The learned Government Pleader for Services contends that the petitioner failed to file the declaration regarding her date of birth within 30 days as specified under the Rules. He further contends that the date of birth of the petitioner was recorded in the year 1991 as 15.6.1958 and the same was also attested by the petitioner. He further contends that the proceedings of the District Collector dated 14.9.1992 for correction of date of birth of the petitioner were pointed out by the Commissioner of Land Revenue and the matter was referred to the Government and thereafter, in pursuance of the orders of the Government, the District Collector issued orders dated 30.1.1999 to enter the date of birth of the petitioner as per the school record, which is 15.6.1958 and that the earlier order of the Collector dated 14.9.1992 is superseded by the subsequent order of the District Collector dated 30.1.1999, and that the orders of the Government/C.L.R and the consequential orders of the Collector dated 30.1.1999 are in accordance with

G.O.Ms.No.165 Finance and Planning (Fin.Wing.F.R.I) Department, dated 21.4.1984, and the action of the respondents in registering the date of birth of the petitioner as per the school records holds good and therefore, the order of the Tribunal does not warrant any interference.

6. We have considered the rival submissions made by the parties. The material on record discloses that the date of birth of the petitioner was entered in the school records as 15.6.1958. There is no evidence on record to show that the date of birth of the petitioner is 18.10.1959. Relying on the wedding invitation of the parents of the petitioner, the date i.e., 18.10.1959 was claimed to be the date of birth of the petitioner. Except relying on the said invitation, nothing was placed by the petitioner to show on what basis she claimed her date of birth as 18.10.1959. Further, no material was placed to show on what basis the Revenue Divisional Officer conducted enquiry and came to conclusion that the date of birth of the petitioner is 18.10.1959.

7. Moreover, on perusal of paragraph No.10 of the order of the Tribunal, it is obvious that the learned Tribunal called for the original records, perused the same and gave a specific finding that the petitioner had not submitted a representation as alleged by her on 22.2.1990 i.e., within one month from the date of her joining in

the post of Probationary Deputy Tahsildar. Further, a specific finding was recorded by the learned Tribunal that the petitioner had submitted a representation on 23.4.1990. When once the petitioner had not produced any material to substantiate her claim that she submitted a representation on 22.2.1990, then the case of the petitioner cannot be considered under Rule 2 (2) of the Rules issued under G.O.Ms.No.165, dated 21.4.1984, for correction of date of birth.

8. Further, the Tribunal has recorded a finding in paragraph No.11 of the order impugned that the date of birth was entered in the service register as per the school records as 15.6.1958 and the petitioner was also aware about the date of birth entered in the service records based upon the school records. Now, she cannot turn around and contend that her date of birth should be corrected in terms of Rule 2(2) of the Rules issued under G.O.Ms.No.165, dated 21.4.1984, without any basis. Further, at the time of opening of the service register, the date of birth of the petitioner was entered as 15.6.1958 and the petitioner also counter-signed the said entry in the service register. This entry in the service record made on the basis of the petitioner's consent cannot be changed unilaterally, without there being any basis, at the will of the petitioner. In view of the same, the date of birth entered in the service register cannot be altered based upon the so called enquiry

conducted by the Revenue Divisional Officer as there is no basis for the petitioner to claim her date of birth as 18.10.1959. The alternation of date of birth as 18.10.1959 was sought only on assumption and presumption on the ground of wedding invitation of the parents of the petitioner, which cannot be taken as basis to draw an inference as to the date of birth of the petitioner as 18.10.1959. The learned Tribunal after going through the records has rightly dismissed the O.A. We do not find any reason to interfere with the order passed by the learned Tribunal.

9. Accordingly, the Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.



JUSTICE SURESH KUMAR KAIT

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 20th July, 2018.

Nn.

**HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
&
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(Judgment delivered by the AKS,J)



20/07/2018

Nn.