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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.01.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

Rev.Apln.No.227/2019

K.Thirumalaimuthu

.. Petitioner

Versus

1.Union of India

rep.by the Secretary to Government
Ministry of Corporate Affairs, Shastri
Bhavan, New Delhi 110 001.

2.The Central Administrative Tribunal

Chennai Bench, Chennai-104

rep.by the Registrar.

.. Respondents

PRAYER:- Review Application filed under Order 47 Rule 1 read with Section 114 of the Code of Civil Procedure to review the order passed in WP..No.26246/2010 dated 23.11.2010.

For Petitioner :	Mr.P.Ulaganathan
For R1 :	Mr.V.Chandrasekaran, SPC
R2 :	Tribunal

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

(1)The Original Applicant and the writ petitioner is the Review Applicant herein and he came forward to file this review application to review the order dated 23.11.2010 made in WP.No.26246/2010.

(2)The facts leading to the filing of this Review Application have been narrated in detail and in extenso in the order dated 16.06.2010 passed in OA.No.85/2009 by the 2nd respondent/Tribunal, as well as in the order, which is sought to be reviewed.



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- (3) The learned counsel for the review applicant/petitioner has drawn the attention of this Court to the representation dated 04.08.1992 and would submit that he has submitted the said representation within five years from the date of joining of the service and at the time of marriage, he gone through the astrological records and found that his Date of Birth was on 16.09.1963 as against the entry made in the SSLC Book first page as 12.07.1962 and immediately approached the jurisdictional Magistrate to get the registration of the Date of Birth and the said order came to be passed on 27.07.1993, based on which, he has submitted the representation dated 23.12.1993 and the said aspect has been completely overlooked both by the 2nd respondent/Tribunal as well as by the Division Bench of this Court.
- (4) Per contra, Mr.V.Chandrasekaran, learned Senior Panel Counsel appearing for the 1st respondent would submit that very same point urged by the learned counsel for the petitioner before the Tribunal as well as before the Division Bench of this Court was rejected and under the guise of filing the review application, it is not open to the petitioner to once again re-argue the writ petition and prays for dismissal of the review application.
- (5) This Court has carefully considered the rival submissions and also perused the materials placed before it.
- (6) The petitioner joined the Central Government Services as Junior Telecom Assistant with effect from 10.08.1987 and at the time of entry into service, his Date of Birth was mentioned as 12.07.1962 as per the SSLC front page. The petitioner in his representation dated 04.08.1992, would state the following:-
- ''With reference to the above subject I have to state that at the time of my joining in this Department, I have mentioned my date of birth as 12-7-62. Now, it is mentioned that in my astrological records my date of Birth was mentioned as 16-9-63. In this connection I have sent all the relevant records including the astrological records to my lawyer for necessary action in order to change the date of birth. After hearing from him I shall inform you the further developments.''
- (7) A perusal of the said representation would disclose that the petitioner has sent the relevant records including the astrological records to his lawyer for necessary action for the purpose of changing the Date of Birth and after hearing him, he will inform the Registrar of Companies, Puducherry, the further developments. In the considered opinion of the Court, in the said representation dated 04.08.1992, the petitioner did not



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- make a positive request to change the Date of Birth from 12.07.1962 to 16.09.1963. Thereafter, the petitioner moved the jurisdictional Magistrate by filing a petition under the Registration of Births and Deaths Act and pursuant to the orders passed thereon, he got the Birth Register Extract and thereafter, submitted a comprehensive representation dated 23.12.1993 for changing the Date of Birth in his Service Record. In the considered opinion of the Court, the said representation dated 23.12.1993 was submitted after five years from the date of service by the petitioner on 10.08.1987.
- (8) The 2nd respondent/Tribunal had noted that as per FR 56, his request for change of Date of Birth is to be made within five years and having noted that the said representation came into being belatedly, has found that the case projected by the petitioner is liable to be rejected and accordingly, dismissed the Original Application vide order dated 16.06.2010 and in the challenge made by the petitioner to the said order by filing WP.No.26246/2010, a Division Bench of this Court had taken note of the fact that the astrological record cannot be taken as an authenticated record for the purpose of Date of Birth and even in his representation dated 04.08.1992, the petitioner has not made a positive representation for the change of Date of Birth ; but merely informed the Registrar of Companies, Puduchery, as to the efforts taken by him for the change of Date of Birth.
- (9) As already pointed out, the petitioner has made a positive representation only on 23.12.1993 which is admittedly, after five years and the 2nd respondent / Tribunal as well as the Division Bench of this Court, having found so, found that the case of the petitioner lacks merits. It is well settled position of law that the review applicant, under the guise of review application, cannot re-argue the writ petition and the review application cannot be treated as an appeal in disguise.
- (10) This Court, on an independent application of mind to the materials placed, is of the considered view that there is no error apparent on the face of the record and that apart, the findings are concurrent in nature.
- (11) In the result, the Review Application is dismissed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar



To

1.The Secretary to Government
Union of India
Ministry of Corporate Affairs, Shastri
Bhavan, New Delhi 110 001.

2.The Registrar
Central Administrative Tribunal
Chennai Bench, Chennai-104.

+1cc to Mr.P.Ulaganathan, Advocate sr.5189
+1cc to Mr.V.Chandrasekaran, Advocate sr.6292

Rev.Appln.No.227/2019

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nr 28/02/2020