

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA
W.P.No.25735 of 2008

R.Parvathi

... Petitioner

Vs

1. The District Collector,
Salem District, Salem.

2. The Panchayat Union Commissioner,
Salem Panchayat Union, Salem.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to permit the petitioner to continue in service beyond 31.10.2008 until 31.5.2023 i.e. the date of her attaining the age of superannuation by correcting the date of birth of the petitioner as on 1.6.1963 as per Medical Certificates and to grant her all consequential benefits and direct the respondents to desist from retiring her from service prematurely, prior to the year 2021 on the basis of incorrect entry made in her Service Register without any basis.

For Petitioner : Mr.M.Ravi

For 1st Respondent : Mr.K.Ravi Kumar, AGP

For 2nd respondent : Ms.P.Shanthi Rakappan

O R D E R

This Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents to permit the petitioner to continue in service beyond 31.10.2008 until 31.5.2023 i.e. the date of her attaining the age of superannuation by correcting the date of birth of the petitioner as on 1.6.1963 as per Medical Certificates and to grant her all consequential benefits and for further direction, directing the respondents to desist from retiring her from service prematurely, prior to the year 2021 on the basis of incorrect entry made in her Service Register without any basis.

2. Learned Counsel for the petitioner submitted that the petitioner was appointed as Cook in the Nutritious Meals

Centre, Panchayat Union Elementary School, Ramagoundanur, Mallamoopampatty Panchayat, Salem Panchayat Union, on 29.6.1994. She also joined duty on 1.7.1994. It is further stated that at the time of joining the service in June 1994, her age was only 30 years. Subsequently, in the year 1998, the Panchayat Union Commissioner, Salem, while opening the Service Book for the petitioner, directed her to produce proof with regard to her age as there was no other authenticated record to prove her date of birth was available. Accordingly, the petitioner produced a Medical Certificate dated 5.10.1998 from one Dr.R.Mohan, Salem certifying that her age as 35 years as on that date before the Panchayat Union Commissioner, Salem and her Service Register was opened and her signature was also obtained. Therefore, she was made to believe that her age would be entered on the basis of the Medical Certificate dated 05.10.1998. Therefore, as per the Medical Certificate dated 05.10.1998 claiming that her age as on the said date is 35 years, she cannot be allowed to retire on 31.10.2008 citing that she has reached the age of superannuation of 58 years as she was only 45 years. However, the petitioner applied for copies of her Service Register first page and Medical Certificate issued to her under the Right to Information Act, on 25.9.2008.

3. The learned Counsel for the petitioner further submitted that on a perusal of the first page of her Service Register, the petitioner found that her date of birth is noted as 08.10.1950. It is not known on what basis the Panchayat Union Commissioner, Salem has entered her date of birth as 08.10.1950, when she has not produced any document showing that her date of birth is 08.10.1950. When the petitioner has produced a Medical Certificate dated 5.10.1998 from Dr.R.Mohan, Salem certifying that her age as 35 years as on that date, the respondents cannot force the petitioner to retire pre-maturely on 31.10.2008. Therefore, a writ of Mandamus should be issued to the respondent to permit the petitioner to continue her service beyond 31.10.2008 till 31.5.2023, it is pleaded.

4. Learned Additional Government Pleader appearing for the 1st respondent submitted that when the petitioner has already retired from service on reaching the age of superannuation on 31.10.2008, she filed the writ petition on 28.10.2008 and no interim order was passed. Therefore from 31.10.2008, the petitioner is not in service. Secondly, she has also not produced any certificate issued by the Medical Board showing her age or produced her birth certificate. Therefore, on the basis of the entries in the first page of the service book, her date of birth has taken into account as 08.10.1950. Therefore, the present Writ Petition has to be dismissed.

5. As rightly contended by the learned Additional Government Pleader, the petitioner's date of birth has been entered as 08.10.1950 in the 1st page of her service book at the time of joining and accordingly, she has reached the age of superannuation on 31.10.2008. To disprove the same, no other acceptable documents have been produced, therefore, I find no merit in this Writ Petition.

6. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs.

Sd/-

Assistant Registrar(CS iv)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Salem District, Salem.
2. The Panchayat Union Commissioner,
Salem Panchayat Union, Salem.

+1cc to Mr.M.Ravi , Advocate SR.No. 21847

+1 cc to Government Pleader SR.NO. 21542

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A.SK(04/04/2019)

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