

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.27577 of 2019
W.M.P.Nos.27066 & 27069 of 2019

V.Balasubramanian

...Petitioner

Versus

- 1.The State of Tamilnadu,
Rep. By its Secretary,
Co-operation, Food and Consumer Protection Department,
Fort.St.George, Chennai.
- 2.The Joint Registrar of Co-operative Societies,
Thiruvannamalai Region,
Thiruvannamalai.
- 3.The Joint Registrar/Managing Director,
Thiruvannamalai District,
Central Co-operative Bank Ltd.,
Thiruvannamalai.
- 4.The Management,
DNI, Kariyanthal Primary
Agricultural Co-Operative Credit Society,
Thiruvannamalai.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the third Respondent in Na.Ka.No.524/2019/E1 and the consequential order in Na.Ka.No.795/2019/E1 both dated 29.06.2019 and quash the same and to direct the third respondent herein to reinstate the Petitioner in service.

For Petitioner

:M/s.M.Ezhilarasi

For Respondents

:Mr.L.P.Shanmugasundaram,
Spcial Government Pleader
(Co-operative)

O R D E R

By consent, this writ petition is taken up for final disposal at the stage of admission itself.

2.The petitioner joined as a Fertilizer Salesman Clerk on 11.11.1989 and subsequently promoted as Senior Clerk on 01.09.2009. Thereafter, the petitioner was absorbed as permanent employee with effect from 05.08.2013 in the cadre of "Assistant" in the 3rd respondent bank. While so, the petitioner came to know that his date of birth was wrongly entered in all his education certificates as 03.06.1961 instead of 10.07.1964, which reflected in the petitioner's service register also. Therefore, the petitioner obtained corrected date of birth certificate from the Additional Deputy Tahsildar, Tiruvannamalai, on 24.02.2005 and brought to the knowledge of the 3rd respondent through a representation dated 19.03.2015. Since, there was no response for the above representation and also to the subsequent representation dated 07.01.2019, the petitioner filed a revision petition on 14.02.2019 before the 2nd respondent, which was forwarded to the 3rd respondent by a letter dated 28.02.2019. Again, there was no respondent, hence the petitioner sent a reminder on 12.04.2019 seeking to update the status of the petition, for which the 3rd respondent vide communication dated 29.06.2019 in Na.Ka.No.524/2019/E1 rejected the petitioner's representation stating that the petitioner should have submitted his representation within five years from the date of joining and also by a communication dated 29.06.2019 in Na.Ka.No.705/2019/E1, permitted the petitioner to retire from service on 30.06.2019. Aggrieved by the same, the petitioner has filed the present petition.

3.Heard the submissions made by Ms.M.Ezhilarasi, learned counsel for the petitioner and Mr.L.P.Shanmugasundaram, learned standing counsel for the respondent Co-operation, Food and Consumer Protection Department.

4.The learned counsel for the petitioner submitted that though the petitioner was appointed in the year 1989, the petitioner was absorbed as permanent employee in the year 2013 only. Thereafter only the petitioner came to know about that his date of birth has been wrongly entered in all the school and educational certificates, which also reflected in the service register. Thereafter, he obtained corrected birth certificate on 24.02.2015 and brought it to the knowledge of the 3rd respondent immediately. Therefore, the 3rd respondent, rejecting

the petitioner's revision petition stating that the petitioner has filed the revision belatedly is unsustainable one. Hence, she seeks for allowing the petition.

5.Per contra, the learned standing counsel appearing on behalf of the respondents would submit that as per Rule 49(b) of Tamil Nadu State and Subordinate Service Rules, any person who has entered into service should make an application to alter the date of his birth as entered in the official records shall be entertained only if such application is made within five years of such entry into service. Therefore, rejecting the representation of the petitioner is in accordance with law.

6.Admittedly, the petitioner entered into service in the year 1989 and was absorbed as permanent employee in the year 2013 and got altered date of birth certificate in the year 2015. However, he made representation only in the year 2019 i.e, after a lapse of five years. It is pertinent to extract Rule 49(b) and (c) of Tamil Nadu State and Subordinate Service Rules, which reads as under:

49(b) "After a person has entered service, an application to alter the date of his birth as entered in the official records shall be entertained only if such an application is made within five years of such entry into service."

49(c) clearly states that "any application received after five years after entry into service or any application, which is not supported by entries in Secondary School Leaving Certificate, School, College or University records, birth extract from records of local bodies or military discharge certificates, shall be summarily rejected."

7.On perusal of the above, I do not find any error in the order passed by the 3rd respondent in his proceedings dated 29.06.2019 in Na.Ka.No.524/2019/E1. Though the petitioner states that he has brought it to the knowledge of the 3rd respondent immediately after obtaining altered birth certificate, however, there is no proof for the same. Accordingly, this writ petition stands dismissed. No costs. Connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

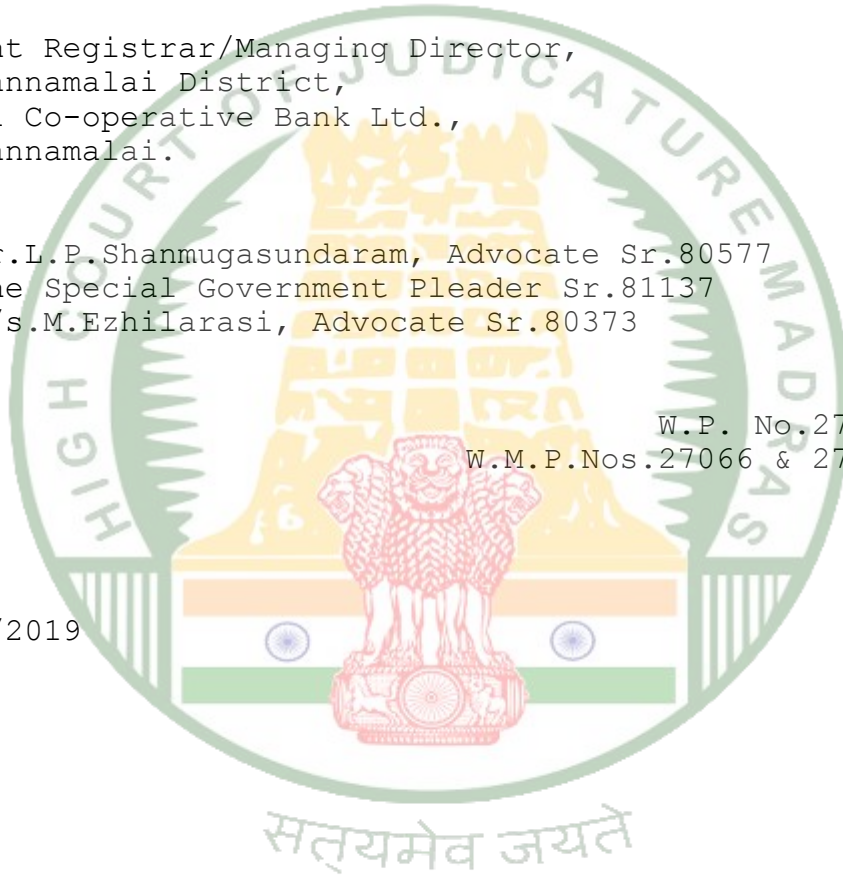
To

- 1.The Secretary,
The State of Tamilnadu,
Co-operation, Food and Consumer Protection Department,
Fort.St.George, Chennai.
- 2.The Joint Registrar of Co-operative Societies,
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Thiruvannamalai.
- 3.The Joint Registrar/Managing Director,
Thiruvannamalai District,
Central Co-operative Bank Ltd.,
Thiruvannamalai.

+1cc to Mr.L.P.Shanmugasundaram, Advocate Sr.80577
+1cc to the Special Government Pleader Sr.81137
+1cc to M/s.M.Ezhilarasi, Advocate Sr.80373

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srg 24/10/2019



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