

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 11.12.2019	Delivered on 13.12.2019
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CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.32103 of 2018
and
WMP Nos.2949 & 4619 of 2019

A.Raj

.. Petitioner

.Vs.

- 1.Union of India,
Represented by its Secretary,
Ministry of Information & Broadcasting,
Government of India, Shastry Bhavan,
NEW DELHI-1100001.
- 2.The Managing Director,
National Film Development Corporation Limited,
A Government of India Enterprise,
Discovery of India Building,
6th Floor, Nehru Centre,
Dr.Annie Besant Road, Worli,
MUMBAI-400 018.
- 3.The Deputy General Manager, (Reporting Officer),
National Film Development Corporation Limited,
A Government of India Enterprise,
350, Pantheon Road, Cooptex
Warehouse Building, Egmore,
Chennai-600 008.
- 4.The Assistant Manager-HR,
National Film Development Corporation Limited,
A Government of India Enterprise,
Discovery of India Building,
6th Floor, Nehru Centre,
Dr.Annie Besant Road, Worli,
MUMBAI - 400 018.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 3rd Respondent in NFDC/Pers./AR/2016-17/1450 dated 29.12.2016 and on the file of the 4th Respondent in connection with NFDC/P and A/AR/2018-19/964 dated 16.10.2018 and quash the same and

consequently direct the respondents to alter the date of birth of the petitioner as 10.02.1960.

[Prayer amended as per Court order dt.11.12.2019 in WMP.4607/2019]

For Petitioner : Mr.R.Viduthalai
Senior Counsel
for Mr.L.N.Praghasam

For R 1 : Mr.R.Vasudevan

For R 2 to R 4 : Mr.Sai Krishnan

O R D E R

The present writ petition has been filed challenging the order passed by the 4th respondent rejecting the claim made by the petitioner and for a consequential direction to the respondents to alter the date of birth of the petitioner as 10.02.1960.

2.The petitioner joined the services of the 2nd respondent Corporation in the year 1984, as a Stenographer. At the time of joining, he had given his date of birth as 10.02.1959 instead of 10.02.1960. The petitioner immediately gave a representation on 20.02.1986, to the 2nd respondent seeking for correcting his date of birth in the official records. According to the petitioner, this representation was not acted upon by the 2nd respondent. Thereafter on 30.10.2003, one more representation was given by the petitioner requesting for the correction of his date of birth in the service records. This was also not acted upon. Ultimately, a representation came to be given during the years 2013, 2017 and 2018, with the same request and an impugned order came to be passed by the 4th respondent on 16.10.2018. The request made by the petitioner was rejected mainly on the ground that he had made a belated claim beyond five years after he joined the services.

3.Mr.R.Viduthalai, learned Senior Counsel appearing on behalf of the petitioner submitted that the petitioner had made a representation within two years after he joined service on 20.02.1986, seeking for alteration of his date of birth in the service records. The learned Senior Counsel submitted that the petitioner had also submitted his birth certificate issued by the Corporation of Madras on 24.05.1976. By pointing out to this document, the learned Senior Counsel submitted that the date of birth of the petitioner has been clearly mentioned as 10.02.1960. The learned Senior Counsel

further submitted that the subsequent representations that were made in 2003, 2016, 2017 and 2018 were all in the nature of reminders and the same cannot be put against the petitioner to reject his claim for alteration of date of birth. The learned Senior Counsel submitted that the impugned Order passed by the 4th respondent requires interference mainly on the ground that the records pertaining to the year 1986, were not available in the Office and therefore, the records produced by the petitioner along with the certified copy of his birth certificate ought to have been considered. The learned Senior Counsel submitted that the 2nd respondent should not have rejected the claim on the said grounds based on the subsequent representations since they were more in the nature of reminders. The learned Senior Counsel therefore sought for remanding the issue back to the 2nd respondent for fresh consideration.

4. Per contra, Mr. Sai Krishnan, learned counsel appearing on behalf of the respondents 2 to 4, submitted that the claim made by the petitioner is liable to be summarily rejected. The learned counsel submitted that there is absolutely no proof for the submission of the representation on 20.02.1986. The learned counsel further submitted that in all the contemporary documents and other applications made for housing loan or for grant of motor car, the petitioner has mentioned his date of birth only as 10.02.1959. The learned counsel further submitted that even in the representation dated 30.10.2003, the petitioner has not whispered about the earlier representation dated 20.02.1986. Therefore, the learned counsel submitted that the alteration of date of birth, sought for by the petitioner is a clear after thought and his belated claim cannot be considered after the expiry of five years after he joined service. The 3rd respondent had also filed a detailed counter in this regard.

5. The only issue that requires consideration in this writ petition is as to whether the petitioner is entitled to seek for alteration of date of birth in the service records. According to the petitioner, his actual date of birth is 10.02.1959, and it was wrongly mentioned as 10.02.1960. For this purpose, the petitioner is relying upon the birth certificate that was given by Corporation of Madras.

6. The relevant rules categorically provides that the alteration in the date of birth can be made by a government servant only within five years of his entry into government service. The Hon'ble Supreme Court has categorically held that inordinate delay or latches on the part of the government servant seeking for correction in the date of birth, should not be entertained. The law on this issue is well settled and it is no longer res integra.

7.The only claim made by the petitioner is that he has given a representation on 20.02.1986, to the 2nd respondent requesting for alteration of date of birth in the service records. If really the petitioner had given such a representation, he would have followed it up and in the applications that he submitted in the year 1994, seeking for housing loan or in the application that he submitted for grant of motor car in the year 1995, the petitioner would not have reiterated his date of birth as 10.02.1959. Even otherwise, when he made a representation on 30.10.2003 [which is the earliest document available and admitted by the respondents], the petitioner would have mentioned about his earlier representation dated 20.02.1986. However, this letter is totally silent about the so called earlier representation made on 20.02.1986.

8.The 2nd respondent was perfectly right in rejecting the claim made by the petitioner since there was absolutely no proof to show that the petitioner had made any application/representation within 5 years from the date of joining the service. The petitioner cannot blame the respondents for not maintaining the records of the year 1986. It is a claim made by the petitioner and therefore it is for the petitioner to prove the same and he cannot ask the respondents to rely upon the letter dated 20.02.1986, which was not available with the respondents. The petitioner has mentioned his date of birth as 10.02.1959, in various documents that have been produced before this Court by way of typed set of papers, by the respondents and infact his school leaving certificate mentions his date of birth as 10.02.1959. Therefore, this Court does not find any illegality or perversity in the rejection order passed by the 4th respondent. There are absolutely no merits to consider the claim made by the petitioner.

In the result, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

KP
To

1.The Secretary, Union of India,
Ministry of Information & Broadcasting,
Government of India, Shastry Bhavan,
NEW DELHI-1100001.

2.The Managing Director,
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MUMBAI - 400 018.

+1cc to Mr.R.Vasudevan, Advocate SR.103989

+1cc to M/s.R.Revathy, Advocate SR.103852

+1cc to Mr.K.S.Natarajan, Advocate SR.104100

W.P.No.32103 of 2018

VD(CO)
CB(21/01/2020)

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