

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Dated: 01.07.2019

CORAM:

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**W.P.(MD)No.8757 of 2018**

R.Chandrasekaran

... Petitioner

vs.

1) The Principal District Judge,
Thanjavur District,
Thanjavur.

2) The Principal Judge,
City Civil Court,
Chennai 600 104

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining the impugned order passed by 1st respondent in Order A.No.27/2018 /A1 dated 07/02/2018 and quash the same and direct the 1st respondent to alter the petitioner's date of birth as 03/08/1961 instead of 22/05/1960 in the service register and consequently provide all service and monitory benefits to the petitioner within the time frame stipulated by this Court.

For Petitioner : Mr.R.Vijayakumar

For Respondents : Mr.R.Aravindan

O R D E R(Order of this Court was made by **SENTHILKUMAR RAMAMOORTHY , J.**)

This Writ Petition is filed challenging the order dated 07.02.2018 of the first respondent, whereby the request of the petitioner for alteration of his date of birth as 03.08.1961 instead of 22.05.1960 was rejected by the first respondent.

2. Heard Mr.R.Vijayakumar, learned counsel for the petitioner and Mr.R.Aravindan, learned counsel appearing for the respondents.

3. The case of the petitioner is that the Date of Birth of the petitioner was wrongly entered in the service register as 22.05.1960 instead of 03.08.1961. Therefore, shortly after the appointment order was issued on 26.12.1981, the petitioner submitted a representation dated 17.12.1984 for alteration of the Date of Birth in the manner mentioned supra. However, by the impugned order, the first respondent rejected the said request.

<https://hcservices.ecourts.gov.in/hcservices/>

4. The learned counsel for the petitioner submits that the



request for alteration of the Date of Birth was rejected primarily on the ground that Rule 49 of the Tamil Nadu State and Subordinate Services Rules does not provide for the alteration of the Date of Birth of candidates born outside India. He, therefore, submits that this is an incorrect interpretation of the said Rule. In specific, he submits that the proviso (2) of the said Rule provides that, in case of the candidates who are born outside the state of Tamil Nadu, the investigation through the Commissioner of Revenue Administration shall be dispensed with and the Tamil Nadu Public Service Commission or the Appointing Authority, as the case may be, shall examine and scrutinize the records produced by the candidates and decide whether the alteration of Date of Birth should be permitted. He further submitted that the birth certificate in the original Burmese language was produced along with an authenticated translation thereof in English in support of the representation for the alteration of Date of Birth and in spite of that, his request was erroneously rejected.

5. From the typed set of papers, it appears that the petitioner has in his possession other documents to corroborate his Date of Birth and the learned counsel for the petitioner submitted that if given an opportunity, the petitioner would provide such supporting documents to the respondents so as to enable the respondents to consider the request of the petitioner for the alteration of the Date of Birth.

6. On the contrary, the learned counsel for the respondents submitted that the impugned order does not contain any infirmity and that it has been clearly stated therein that the request for alteration of Date of Birth was rejected not only on the ground that Rule 49 of the Tamil Nadu State and Subordinate Services Rules does not apply but also on the ground that the original version of the birth certificate does not mention the name of the petitioner and the relevant Sl.No.2 is blank in the original version whereas in the translated version, the name of the petitioner is mentioned therein. He further pointed out that the impugned order further states that except the birth certificate in the Burmese language and the translated version, no other supporting documents were provided by the petitioner to substantiate his request for alteration of Date of Birth.

7. The pleadings, documents and oral submissions were clearly considered.

8. On a perusal of the impugned order, it is evident that one of the grounds for rejection of the request is that there is no provision under Rule 49 of the Tamil Nadu State and Subordinate Services Rules. On examining the said Rule 49, it is clear that the proviso(2) to Rule 49 provides for the case of candidates who are born outside India. In view of the fact that it is not restricted to candidates born inside India, we are of the view that the said Rule would apply to the case of the candidates born



outside India, such as the petitioner herein. As regards the other reasons stated in the impugned order, it is clear on examining the original version of the birth certificate in the Burmese language and comparing the same with the translated version thereof, that the Sl.No.2 in the original is blank whereas the translated version at Page No.12 of the typed set of papers mentions the name of the petitioner. Therefore, the findings in the impugned order that the translated version cannot be relied upon is correct.

9. Considering the facts and circumstances of the case, we are of the view that this Writ Petition may be disposed of by setting aside the impugned order and directing the respondents to consider the representation of the petitioner in accordance with proviso (2) of Rule 49 of Tamil Nadu State and Subordinate Services Rules. The petitioner is permitted to provide all necessary documents in support of his request for alteration of Date of Birth. On receipt of the supporting documents, the respondents are directed to consider the representation of the petitioner and dispose of the same on merits and in accordance with law within a period of eight (08) weeks from the date of submission of the supporting documents by the petitioner.

Accordingly, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

1) The Principal District Judge,
Thanjavur District,
Thanjavur.

2) The Principal Judge,
City Civil Court,
Chennai 600 104

+1 CC to M/s.R.VIJAYAKUMAR, Advocate (SR-72525[F] dated
01/07/2019)

+1 CC to M/s.R.ARAVINDAN, Advocate (SR-72651[F] dated
02/07/2019)

STS

Order made in
W.P. (MD) No.8757 of 2018
01.07.2019