



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :18.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

WP (MD) No.22974 of 2015

WEB COPY

A.Chinnathambi

... Petitioner

Vs.

1.The State of Tamil Nadu,
represented by its Secretary to Government,
Environment and Forest Department,
Fort St.George,
Chennai-9.

2.The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet, Chennai-15.

3.The District Forest Officer,
Trichy Forest Division,
Trichy.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records in Na.Ka.No.2839/2015/pa2, dated 28.10.2015 of the third respondent herein to quash the same and with consequential direction to the third respondent to alter the date of birth as 01.01.1957 instead of 01.01.1956.

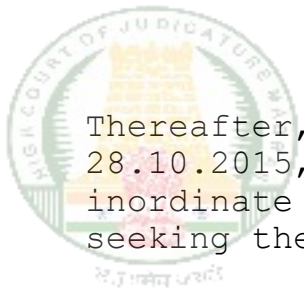
For Petitioner : M/s.K.Jenitha

For Respondents : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader

ORDER

This writ petition has been filed praying to quash the order in Na.Ka.No.2839/2015/pa2, dated 28.10.2015 of the third respondent herein and to direct the third respondent to alter the date of birth of the petitioner as 01.01.1957 instead of 01.01.1956.

2. The case of the petitioner is that he was born on 01.01.1957. He joined in service as Plot Watcher on temporary basis on 01.09.1982 and thereafter, he was appointed as Forest Watcher on 18.08.2005. His Service Register was opened on 10.07.2006 by the Gudalur District Forest Officer. Since there was a wrong entry of his date of birth as 01.01.1956 instead of 01.01.1957, he made a representation on 05.01.2007 to the Gudalur District Forest Officer. However, the same has not been considered for a long time.



Thereafter, the third respondent, by his impugned proceedings dated 28.10.2015, rejected his claim for alteration of date of birth with inordinate delay. Hence, the petitioner has approached this Court seeking the above said relief.

3. The learned Counsel appearing for the petitioner submitted that a similar issue has already been decided by this Court in W.P. (MD)No.2224 of 2014, dated 06.07.2015 and hence, he seeks appropriate direction to the respondents.

4. Heard the learned Counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

5. On perusal of the records, it is seen that the petitioner has not claimed for change of date of birth within a period of 5 years as stipulated in the Tamil Nadu Basic Subordinate Service Rules. This Court finds it appropriate to extract Rule 49 of the said Rules as under:

49. Alteration of date of birth --

(a) If, at the time of appointment, a candidate claims that his date of birth is different from that entered in his S.S.L.C. or Matriculation Register or School records, he shall make an application to the Tamil Nadu Public Service Commission in cases where the appointment is made in consultation with the Commission and in other cases to the appointing authority stating the evidence on which he relies and explaining how the mistake occurred. The application shall be forwarded to the Commissioner of Revenue Administration for report after investigation by an officer not below the rank of a Deputy Collector and, on receipt of the report, the Tamil Nadu Public Service Commission or the appointing authority, as the case may be, shall decide whether the alteration of date of birth may be permitted or the application may be rejected:

Provided that in case of a candidate who was 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 that may be produced by the candidate and shall decide whether the alteration of date of birth may be permitted or the application may be rejected.

(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. Such an application shall be made to the authority competent to make an appointment to the post held by the applicant at the time of his application

and shall be disposed of in accordance with the procedure laid down in sub-rule (a).

(c) 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.

(d) In considering the question of permitting an alteration on the date of birth as entered in the official records even when such entry is proved to have been due to a bonafide mistake, the Government or the appointing authority shall take into consideration the circumstance whether the applicant would

normally be eligible for appointment to the post at the time of entry into service had his age been correctly stated and what would have been its effect on his service and the service conditions of other officers in the service and may permit the alteration subject to such condition as they or it may deem fit to impose:

Provided that the Tamil Nadu Public Service Commission shall be consulted in the case of an applicant who has been initially recruited through the Tamil Nadu Public Service Commission, if it is proposed to accept his request for alteration of date of birth.

(e) The Procedure laid down in sub-rule (a) shall be followed in all cases where alteration of date of birth is proposed suo motu by the Head of Office on the basis of medical opinion, in the absence of any other authoritative records.

(f) The decision of the Tamil Nadu Public Service Commission, the appointing authority or the Government, as the case may be, shall be final.

6. Though the petitioner contended that his representation dated 05.01.2007 seeking alteration of date of birth was duly forwarded by the Forest Range Officer by his file number in C.No.120/2007, dated 07.02.2007, the impugned order has not shown the availability of one such record with the department, as mentioned by the petitioner. In that event, the decision cited by the learned Counsel appearing for the petitioner in W.P.(MD)No.2224 of 2014, dated 06.07.2015, is not applicable to the present case.



7. In such view of the matter, considering the fact that the petitioner has not submitted any application within a stipulated period as mentioned in Rule 49 of the Tamil Nadu Basic Subordinate Service Rules as mentioned in the impugned order, the prayer as sought for by the petitioner cannot be granted by this Court.

8. Accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

/ True Copy /

Sub Assistant Registrar(CS)

To

1.The Secretary to Government,
State of Tamil Nadu,
Environment and Forest Department,
Fort St.George,
Chennai-9.

2.The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet, Chennai-15.

3.The District Forest Officer,
Trichy Forest Division,
Trichy.

+1 CC to M/s.K.JENITHA, Advocate (SR-54725[F] dated 18/03/2019)

+1 CC to M/s.SPL GP (SR-54953[F] dated 19/03/2019)

ORDER MADE IN
WP(MD)No.22974 of 2015
18.03.2019

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ES/22.04.2019/4P/6C