



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2019

CORAM:

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.23370 of 2016

and W.M.P. (MD) .Nos.16795 & 16796 of 2016

WEB COPY

P.Periyasamy

.. Petitioner

Vs.

1.The Secretary,

Tamilnadu Public Health,

Secretariat,

Chepauk,

Chennai - 5.

2.The Director,

Department of Public Health and Preventive Medicine,

Chepauk,

Chennai - 5.

3.The Deputy Director of Health Services and Family Welfare,

Race Course Road,

Trichy - 1.

4.The Block Medical Officer,

Primary Health Centre,

Thandalaiputhur,

Musiri Taluk,

Trichy District.

.. Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the proceedings of the 2nd respondent in O.Mu.No.2290/A2/2014, dated 15.10.2014 and quash the same as of no legal consequence and consequently direct the 2nd respondent to correct the date of birth of the petitioner in Service records from that of 21.06.1961 to 21.06.1967.

For Petitioner : Mr.V.Singan

For Respondents : Mr.A.Muthukaruppan
Additional Government Pleader

O R D E R

This petition has been filed for issuance of writ of Certiorarified Mandamus calling for the proceedings of the 2nd respondent in O.Mu.No.2290/A2/2014, dated 15.10.2014 and quash the same as of no legal consequence and consequently direct the 2nd respondent to change the date of birth of the petitioner in his Service Register from that of 21.06.1961 to 21.06.1967.



2. According to the petitioner, the petitioner joined service on 30.03.1992 as Field Officer in Zonal Entomological Team in Health Department at Mannarpuram in Tiruchirappalli. At the time of joining into the service, his date of birth has been entered in his Service Register as 21.06.1961. But, his correct date of birth is 21.06.1967. Only on 21.04.2014, the petitioner came to know about the wrong entry of his date of birth in his service register. According to the petitioner, during the time of civil war at Sri Lanka, between LTTE and State of Sri Lanka, the parents of the petitioner migrated to India as refugees. He was born in Government Hospital, at Chagavacheri in Sri Lanka, on 21.06.1967. The aforesaid record could not be traced out. Now only the petitioner has traced out the said original records and made a representation to the authority to correct the original date of birth as 21.06.1967 in the service register. But the said request made by the petitioner was rejected by the respondent. Hence, the present writ petition has been filed.

3. The learned Additional Government Pleader drew the attention of this Court by relying Rule 49 of the Tamilnadu State Subordinate Service Rules and stated that as per the Rule 49(b), the petitioner ought to have made his representation before the completion of five years service. Therefore, the petitioner is not entitled for any alteration of date of birth. Hence, the authority have rightly rejected the claim of the petitioner.

4. Rule 49(b) of the Tamilnadu State Subordinate Service Rules reads as follows:

"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. 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)."

5. The reason stated by the petitioner is that he could not able to trace out the original date of Birth Certificate at Sri Lanka and now after secure the same, he made the application only in the year 2014.

6. In similar circumstances, this Court in **C. Elangovan Vs. The Director of School Education, Madras**, has held as follows:

"In view of the submissions made by the learned counsels appearing for the parties concerned and in view of the decisions cited above, it is clear that the petitioner ought to have made his request for



alteration of his date of birth, within a period of five years from the date of his joining in service or atleast within five years from the date of the coming into force of the Rule in the year 1961, if the employee concerned was in service at that time. Since the petitioner had not made his request within the time limit prescribed, his request had been rejected by the impugned order, dated 3.5.1994, passed by the respondent. According to General Rule 49(c) of the Tamil Nadu State and Subordinate service Rules, any request made for alteration of date of birth would be summarily rejected, if it has been made beyond five years from the date of the person's initial appointment. The said rule has been enacted to discourage persons from making representations for alteration of their date of birth at the fag end of their career. If such requests are entertained, it would cause great hardship for those persons whose seniority had already been fixed and in some cases certain rights would have accrued in their favour. Such seniority or rights cannot be disturbed based on the representations made by certain persons at the fag end of their career, close to the date of their retirement. The various decisions of the Courts of law, as noted above, make it clear that the alteration or change of date of birth could be done only within five years from the date of joining in service, in accordance with General Rule 49 of the Tamil Nadu State Subordinate Service Rules. Since the petitioner had not made his request within the prescribed time limit, it has been summarily rejected by the impugned proceedings of the respondent, in accordance with the established rules applicable to the case."

7.This Court has also relied on the decision of the Honourable Apex Court in **The State of Tamilnadu Vs. T.V.Venugopalan**, reported in (1994) 6 SCC 302. In view of the settled preposition of law laid down by this Court as well as Honourable Apex Court, the application, seeking alteration of date of birth in Service Register beyond the period of five years from the date of entry into the service, cannot be entertained and therefore, the said claim made by the petitioner is liable to be rejected.

8.Admittedly, the petitioner has not submitted his application within five years from the date of entry into the service as per <https://hcservices.ecdus.gov.in/hcservices/> therefore, since the said application filed by the petitioner beyond five years period and since there is no other



provision for granting relaxation for considering the application of the petitioner for alteration of date of birth, the contention of the petitioner is not acceptable. There is no illegality or error in the impugned order. Therefore, the contention of the petitioner liable to be rejected.

8.Considering the aforesaid judgment and facts of the case, this Court is inclined to dismiss this writ petition.

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

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Secretary, Tamilnadu Public Health, Secretariat, Chepauk, Chennai - 5.

2.The Director,
Department of Public Health and Preventive Medicine,
Chepauk, Chennai - 5.

3.The Deputy Director of Health Services and Family Welfare,
Race Course Road, Trichy - 1.

4.The Block Medical Officer, Primary Health Centre,
Thandalaiputhur, Musiri Taluk, Trichy District.

+1 CC to M/s.SPL GP (SR-72200[F] dated 28/06/2019)

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