

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.7350 of 2016

ORDER:

This writ petition is filed seeking the following relief :-

“..... to issue any writ, order or direction more particularly one in the nature of Writ of Mandamus declaring all the proceedings leading upto and including the proceedings vide Ref.No.RG2/ C3(0)/ 217/ Dy.PM 914 dated 18.02.2015 proceedings Ref.No.RG2/ 0C3(0)/ 217/ Dy.PM 577 dated 03.02.2016 and proceedings vide Ref.No.RG2/ PER/ CF/ 567 dated 17.02.2016 informing petitioner's date of birth as 12.03.1956 and fixing petitioner's date of retirement as 31.03.2016 as arbitrary, illegal, bad in law, violative of principals of natural justice and consequently by setting aside the said proceedings direct the respondents to correct petitioner's date of birth as 03.07.1961 instead of 12.03.1956 in the service records and also in all other relevant records of the respondents, continue petitioner in service till he attains the age of retirement as per correct date of birth with all consequential and attendant benefits”.

Heard Mr.P.V.LBhanu Prakash, learned counsel for the petitioner and Mr.J.Sinivas Rao, learned Standing Counsel for the respondents.

It has been contended by the petitioner that he has studied upto 4th class and owing to various problems and domestic issues, he could not pursue his studies further. The petitioner submits that he was initially appointed as Badli Filler with the respondents on 17.04.1981 and at the time of his appointment, he has produced 4th class study certificate and in the said certificate, the date of birth of the petitioner was shown as 03.07.1961, but the respondents have erroneously entered his date of birth based on the medical report as 12.03.1956. Therefore, the petitioner had submitted a representation to the respondents on 19.12.2006 seeking correction

of his date of birth. When the respondents have not acted on the said representation, the petitioner had filed W.P.No.29843 of 2015 and this Court was pleased to dispose of the said writ petition on 14.09.2015 directing the respondents to refer the case of the petitioner to age determination committee. Pursuant to the said order, the age determination committee has considered and rejected the case of the petitioner vide proceedings dated 14.01.2016. The petitioner submits that he retired from service vide order dated 31.03.2016. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner submits that the respondents have erroneously entered the date of birth of the petitioner at the time of his initial appointment based upon medical report, but not considered the study certificate submitted by the petitioner. Therefore, the learned counsel submits that appropriate orders be passed in the writ petition by setting aside the report of the age determination committee and continue the petitioner in service as per his correct date of birth i.e., 03.07.1961 and continue him in service with all consequential benefits.

Learned Standing Counsel appearing for the respondents has contended that at the time of his initial appointment, the petitioner had not submitted any proof in respect of his date of birth and in those set of circumstances, the case of the petitioner was referred to medical board and based upon the medical examination report, the date of birth of the petitioner was entered as '12.03.1956' and the petitioner has not disputed his date of birth till the last minute and only at the fag end of his career, the petitioner has been

making representations seeking correction of his date of birth. Pursuant to the order passed by this Court in W.P.No.29843 of 2015, the case of the petitioner was referred to age determination committee and the age determination committee had examined the case of the petitioner and after giving an opportunity to the petitioner had determined the date of birth of the petitioner as '12.03.1956' and accordingly, the petitioner retired from service on 31.03.2016. Since the petitioner has raised the issue of date of birth at the fag end of his career, the same is not maintainable. The Hon'ble Supreme Court in *State of Tamilnadu Vs. T.V.Venugopalan*¹ had categorically held that the request of employees seeking correction of date of birth at the fag end of carrier should not be entertained and this is one of such cases. The petitioner is raising the issue of his date of birth at the fag end of his career and the age determination committee has examined the case and after giving opportunity to the petitioner rejected the case of the petitioner. Hence, there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions made by the respective parties, is of the considered view that the petitioner has not produced any material before this Court to demonstrate that he had submitted proof about his date of birth at the time of his initial appointment. The petitioner has relied upon certain documents, which are alleged to have been procured only during 2010-12, but not earlier thereto i.e., pan card, adhaar card and other documents and none of the certificates relied upon by the

¹ (1994) 6 Supreme Court Cases 302

petitioner are prior to his initial appointment. Admittedly, the petitioner has approached this Court at the fag end of his career seeking correction of date of birth and the respondents have also referred the case of the petitioner to the age determination committee and the age determination committee had examined and rejected the case of the petitioner. Therefore, this Court is not inclined to interfere in the matter, as the petitioner has approached this Court at the fag end of his career. Hence, there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

12-09-2019
Prv

