



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.01.2020
CORAM
THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH
WP.No.892 of 2020
and
WMP.Nos.1073 & 1075 of 2020

S.Rajammal

.. Petitioner

- Vs -

1. The Secretary to Government,
Public Department,
The Government of Tamil Nadu,
Fort St. George, Chennai-600 009.

2. The Secretary to Government,
Revenue Department,
The Government of Tamil Nadu,
Fort St. George, Chennai-600 009.

3. The Commissioner of Revenue Administration/
Principal Secretary,
Ezhilagam Building,
Chepauk, Chennai-600 005.

4. The District Collector,
Erode District, Erode.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the concerned records relating to the Memo vide Na.Ka.No.35705/2019/A5 dated 24.12.2019 passed by the 4th respondent and Memo vide Na.Ka.No.35706/2019/A5 dated 31.12.2019 passed by the 4th respondent and quash the same and consequently restrain the 4th respondent from re-opening the issue of the date of birth of the petitioner.

For Petitioner : Mr.M.Gnanasekar

For Respondents : Mr.P.V.Selvakumar
Additional Government Pleader
for R1 to R4

O R D E R

The present writ petition has been filed challenging the proceedings of the fourth respondent dated 24.12.2019 directing the petitioner to produce the proof of her date of birth, within a period of seven days.

2. The case of the petitioner is that she was appointed as a Temporary Junior Assistant in the year 2005 and she was posted at the Taluk Office, Bhavani on a consolidated pay.



The petitioner was continuously engaged and therefore, the petitioner had sought for regularization of her service by relying upon certain Government Orders. The further case of the petitioner is that she approached this Court by filing WP.No.33533 of 2019 seeking for the relief of regularizing her services as a Junior Assistant and the said writ petition is pending and notice has already been taken by the respondents. In the meantime, the fourth respondent has issued the impugned Memo dated 24.012.2019 calling upon the petitioner to submit her proof regarding her date of birth on the ground that there is a discrepancy found in the date of birth between the Service Register and the Communication sent by the Employment Exchange in the year 2005.

3. The grievance of the petitioner is that even at the time of joining in the year 2005, the petitioner has submitted all her certificates along with the Employment Identity Card and that the petitioner has not retained any copy of the certificates. The further grievance of the petitioner is that the respondents are undertaking this exercise with a mala fide intention, since the petitioner has approached this Court by filing a writ petition in WP.No.33533 of 2019.

4. The learned counsel for the petitioner makes it clear that the petitioner is not shying away from proving her date of birth and the only request made by the learned counsel for the petitioner is that the respondents themselves are having the certificates that were given by the petitioner and they can easily verify the original date of birth of the petitioner from those certificates and the petitioner need not be unnecessarily made to get a certificate by giving a very short time.

5. Mr.P.V.Selvakumar, learned Additional Government Pleader appearing for the respondents submitted that there was no mala fide intention on the part of the fourth respondent by calling upon the petitioner to give her proof of date of birth, since the fourth respondent found that there was a discrepancy in the date of birth found in the Service Register and the communication of the Employment Exchange. The learned counsel submitted that a mere clarification that was sought for by the fourth respondent cannot be made a subject matter of challenge in the writ petition.

6. This Court has carefully considered the materials available on record and also the submissions made on either side.

7. The petitioner has already approached this Court by filing WP.No.33533 of 2019 seeking for regularization of services in the post of Junior Assistant with all consequent monetary benefits. In the said writ petition, the respondents have also taken notice. In the process of considering the



claim made by the petitioner for regularization, the fourth respondent has issued a Memo directing the petitioner to submit her proof of date of birth, since some discrepancy was found in the records. According to the petitioner, this Memo was issued by the fourth respondent with a mala fide intention to somehow reject the claim made by the petitioner in the earlier writ petition. It is the further case of the petitioner that all the records and certificates have already been given even at the time of appointment in the year 2005 and all the necessary records are available with the respondents. It is the further claim made by the petitioner that even at the time of registering with the Employment Exchange, the petitioner has given the proof for her date of birth and the respondents can easily call for those records and satisfy themselves regarding the date of birth of the petitioner.

8. The purport of the impugned Memo issued by the fourth respondent is only to verify the actual date of birth of the petitioner. As rightly contended by the learned counsel for the petitioner, the petitioner has already submitted all the certificates even at the time of joining in the year 2005. Those certificates will necessarily contain the date of birth of the petitioner. That apart, the petitioner has registered with the Employment Exchange and at the time of registration, the petitioner would have given the proof of date of birth. The respondents can always call for those particulars from the concerned Employment Exchange and verify the date of birth of the petitioner. That apart, the petitioner can also apply for her date of birth from the concerned authority and submit the same before the fourth respondent. This exercise is being done only to confirm the date of birth of the petitioner and nothing more. Therefore, the respondents, apart from insisting the petitioner to produce the birth certificate, can also verify the certificates that have already been submitted by the petitioner and also call for the details from the Employment Exchange and satisfy themselves about the date of birth of the petitioner.

9. In view of the above discussion, there shall be a direction to the fourth respondent to verify the certificates that are already available on record, which was submitted by the petitioner at the time of her joining in the year 2005 and also call for the particulars from the Employment Exchange, where the petitioner has already registered her name. In the meantime, the petitioner is also directed to take steps to get the relevant certificate in order to prove her date of birth and the same shall be submitted within a period of 30 days from the date of receipt of a copy of this order.



costs.
closed.

Consequently, connected miscellaneous petitions are

WEB COPY

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

kmi

To

1. The Secretary to Government,
Public Department,
The Government of Tamil Nadu,
Fort St. George, Chennai-600 009.
2. The Secretary to Government,
Revenue Department,
The Government of Tamil Nadu,
Fort St. George, Chennai-600 009.
3. The Commissioner of Revenue Administration/
Principal Secretary,
Ezhilagam Building,
Chepauk, Chennai-600 005.
4. The District Collector,
Erode District, Erode.

+1cc to Mr.M.Gnanasekar , Advocate SR.No. 3612
+1 cc to Government Pleader Sr.No. 4364

WP.No.892 of 2020

A.SK(19/02/2020)