

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2020

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.12495 of 2013

And

M.P.No.1 of 2013

A.Kalpanadevi

... Petitioner

Vs.

1.Special Commissioner and Commissioner of
Commercial Taxes
Chepauk, Chennai – 5.

2.Director of School Education,
College Road, Chennai.

3.District Education Officer,
Pollachi.

4.The Principal
Municipal Girls Higher Secondary School,
Kottur Road, Pollachi 642 001.

5.The Appellate Deputy Commissioner,
Commercial Taxes, Pollachi. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st and 5th respondents herein to order alteration of date of birth of the petitioner in the service record altering the same as 02.04.1959 instead of 11.04.1955 in the

light of the declaratory decree passed by the District Munsiff, Pollachi in O.S.No.297 of 1982, consequently direct the 1st and 5th respondents to treat the petitioner to be deemed in service up to 02.04.2017 and grant the monetary and other benefits to the petitioner as per the Rules for the period from 01.05.2013 to 02.04.2017.

(Prayer amended as per the order of this Court dated 11.09.2020 made in W.M.P.No.3760 of 2017 in W.P.No.12495 of 2013.)

For Petitioner : Mr.S.Kalyanaraman

For Respondents : Mr.R.Swarnavel for R1 & R5
Government Advocate
Mr.S.Suresh Kumar for R2 & R3
Government Advocate

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the respondents 1 and 5 to order alteration of date of birth of the petitioner in the service record altering the same as 02.04.1959 instead of 11.04.1955 in the light of the declaratory decree passed by the learned District Munsiff, Pollachi, in O.S.No.297 of 1982, and to consequently direct the respondents 1 and 5 to treat the petitioner to be deemed in service up to 02.04.2017 and to grant the monetary and other benefits to the petitioner as per the Rules for the period from 01.05.2013 to 02.04.2017.

2.The case of the petitioner is that the petitioner joined the service on 08.11.1982 as Steno Typist in the Office of the Appellate Assistant Commissioner, Commercial Taxes, Coimbatore and was working as Special Grade Steno Typist in the office of the Appellate Assistant Commissioner (CT), Pollachi.

3.It is the further case of the petitioner that when the petitioner joined the Pollachi Municipal Girls Higher Secondary School, her date of birth was mistakenly given as 11.04.1955, whereas, her actual date of birth is 02.04.1959. Immediately on coming to know about the same, the petitioner filed a suit in O.S.No.297 of 1982 on the file of the District Munsif Court, Pollachi and the said suit was decreed in favour of the petitioner by the said Court on 20.04.1985.

4.It is the further case of the petitioner that the petitioner submitted an application to the first respondent through proper channel for rectification of the date of birth in the service register. The said application after scrutiny at various levels was returned stating that since the entry in the service register is based on the entry related to date of birth as found in the SSLC book, the alteration

of date of birth could be effected only upon the alteration of date of birth in the SSLC book.

5.It is the further case of the petitioner that since the efforts taken by the petitioner to alter the date of birth proved futile, the petitioner filed W.P.No.3172 of 2013 before this Court and this Court vide order dated 08.02.2013 disposed of the said writ petition by directing the respondents therein to dispose of the petitioner's representation within a time frame. Even thereafter no order was passed. Hence, this writ petition.

6.The learned counsel appearing for the petitioner would submit that initially the petitioner filed this writ petition with a prayer seeking issuance of Writ of Mandamus directing the respondents 1 and 5 to order alteration of date of birth of the petitioner in the service record altering the same as 02.04.1959 instead of 11.04.1955 in the light of the declaratory decree passed by the District Munsiff, Pollachi in O.S.No.297 of 1982, forbearing the respondents 1 and 5 from retiring the petitioner from service based on the existing date of birth namely 11.04.1955 as found in the service records. However, the petitioner retired from service on 30.04.2013. Hence, the

petitioner sought amendment of the prayer and now seeks issuance of Writ of Mandamus directing the respondents 1 and 5 to order alteration of date of birth of the petitioner in the service record altering the same as 02.04.1959 instead of 11.04.1955 in the light of the declaratory decree passed by the District Munsiff, Pollachi in O.S.No.297 of 1982, and to consequently direct the respondents 1 and 5 to treat the petitioner to be deemed in service up to 02.04.2017 and grant the monetary and other benefits to the petitioner as per the Rules for the period from 01.05.2013 to 02.04.2017.

7.The learned counsel appearing for the petitioner would further submit that the petitioner joined the service during the year 1982 and on coming to know that her date of birth has been wrongly entered in the service register based on the School records, the petitioner filed a suit in O.S.No.297 of 1982 on the file of the District Munsif Court, Pollachi and obtained decree in her favour during the year 1985. Immediately thereafter, the petitioner made application to the first respondent for alteration of date of birth in her service register, which is within five years from the date of joining the service. Accordingly, the learned counsel prayed for allowing the writ petition.

8.The learned Government Advocate appearing for the respondents 1 and 5 would submit that as per Rule 49 [c] of the Tamil Nadu State and Subordinate Service Rules, a person who seeks alteration in date of birth has to make application within five years from the date of entry into service. In the present case, the petitioner has not produced any record to show that the petitioner made application for alteration of date of birth in the service register within a period of five years from the date of entry into service.

9.Heard the arguments advanced on either side and perused the materials available on record.

10.Though the petitioner has impleaded five respondents including the Education Department in this writ petition, the petitioner has not impleaded the Appellate Assistant Commissioner, Commercial Taxes, Coimbatore, where the petitioner initially joined the service as party respondent in this writ petition.

11.Further, in the affidavit filed in support of this writ petition, it is only stated that soon after the petitioner obtained the Civil Court decree, she submitted an application to the first respondent through

proper channel, for rectification of the date of birth in the service register, however, the date on which the petitioner has made the said application has not been mentioned. The petitioner has not produced any record to establish that she made application for alteration of date of birth in the service register within a period of five years from the date of entry into service.

12.Further, it appears that the petitioner has retired from service on 30.04.2013. In view of all the above, after a lapse of seven years, this Court is not inclined to grant the relief sought for in this writ petition.

13.The writ petition is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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सत्यमेव जयते

11.09.2020

Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

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M.DHANDAPANI,J.
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To

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