

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 25.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.17856 of 2013

M.Ganesan

.. Petitioner

Vs -

- 1.Tamilnadu Generation and
Distribution Corporation Ltd,
Rep.by its Chairman cum
Managing Director,
New No.144, Anna Salai,
Chennai -2.
- 2.The Chief Engineer (Personnel)
Tamilnadu Generation and
Distribution Corporation Ltd,
No.144, Anna Salai,
Chennai -2.
- 3.The Superintending Engineer,
Mettur Electricity Distribution circle,
Tamilnadu Generation and
Distribution Corporation Ltd,
Mettur Dam-1.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified Mandamus, after calling for the records pertaining to the order dated 04.05.2011 passed by the 3rd respondent in Ku.Aa.No.003238/422/Ni.Pi.1(1)/Ko.Thani/2011, quash the same and consequently direct the respondents to correct and alter the petitioner's dated of birth as 12.04.1975 in terms of and in accordance with the decree passed by the Principal District Munsif Court, Kallakurichi in O.S.NO.553/2006 dated 11.12.2007 and to continue his services based on the said date of birth, award costs.

For Petitioner : M/s.V.Ajoy Khose
For Respondent : Mr.Karthik Rajan

ORDER

The petitioner filed this writ petition to call for the records pertaining to the order dated 04.05.2011 passed by the 3rd respondent in Ku.Aa.No.003238/422/Ni.Pi.1(1)/Ko.Thani/2011, quash the same and consequently direct the respondents to correct and alter the petitioner's date of birth as 12.04.1975 in terms of and in accordance with the decree passed by the Principal District Munsif Court, Kallakurichi in O.S.NO.553/2006 dated 11.12.2007 and to continue his services based on the said date of birth, award costs.

2.The case of the petitioner is that in the year 1996 he passed B.E. Degree course in Electrical and Electronics Engineering and thereafter passed Master degree in Engineering (Power System) in the year 2000 and simultaneously registered under the Technical/Professional employment Exchange, Mandaveli, Chennai 28. Based on the registration with employment exchange and also based on his company apprenticeship training with the Tamilnadu Electricity Board, during the year 1997-1998, he was called for interview and based on his performance in the written test and interview, he was selected and appointed as Assistant Engineer (Electrical) by an order dated 15.12.2000 and he was directed to join duty on or before 27.12.2000. The petitioner joined duty on 27.12.2000. It is the averment of the petitioner that the petitioner's original date of birth is 12.04.1975. However, due to the fact that his parents were illiterate, his date of birth in the school records and also in his SSLC mark sheet have been given as 17.06.1973, which has been recorded in the service book. After joining the service, the petitioner noticed that error in the date of birth entered in the school certificate and, therefore, the petitioner approached the Kallakurichi Municipality, the Joint Registrar of registration of births and deaths, Kallakurichi for issuance of a certificate dated 21.07.2005, for altering his date of birth. The petitioner also by application dated 17.8.2005, made a request to the respondent to correct his date of birth in the service record before the end of 5 years from the date of his appointment. However the said application was returned with a direction to submit his application after getting orders from the appropriate Civil Court with regard to his correct date of birth. Therefore, the petitioner filed a suit before the Principal District Munsif Court, Kallakurichi in O.S.No.885/2005 and prayed for a declaration to the effect that the name of his

father was Kulandivelu @ Muthu Gounder and similarly filed another suit in O.SNO.553/2006 for a direction to register his date of birth as 12.04.1975 with name as M.Ganesan. Both the suits were decreed as prayed for. It is the further averment of the petitioner that after obtaining the decree of the Civil Court, the Kallakurichi Municipality issued him a birth certificate to the effect that his date of birth was 12.04.1975. Once again he made a representation to alter his date of birth as 12.04.1975 instead of 17.06.1973 as entered in his service register, by an application dated 30.03.2009, which was followed up with repeated representations and since no orders were passed, the petitioner filed the present petition.

3. Learned counsel appearing for the petitioner, while reiterating the points raised in the grounds, submitted that even after the petitioner obtaining the civil court decree altering his date of birth, the respondents have not positively considered his representation. In fact, the petitioner has submitted his application for alteration of date of birth within the prescribed period and, therefore, the inaction on the part of the respondent cannot be put against the petitioner. Therefore, he prayed for allowing the petition.

4. Per contra, learned standing counsel appearing for the respondent submits that the initial entry made in the service book, while the petitioner was appointed as Assistant Engineer, his date of birth was entered in the service book on the basis of the declaration made by him. The date of birth as reflected in the declaration made along with the application as also the school certificate reveals that the date of birth of the petitioner is given as 17.06.1973 and based on the same the date of birth has been entered in the service as per the rules of the Tamil Nadu Electricity Regulation. It is the submission that the records produced by the petitioner as also the declaration made by the petitioner can alone for the basis for the date of birth and civil court decree cannot be taken into consideration for the purpose of altering the date of birth in the service record, more so, when the said civil court decree was obtained after a period of five years and, therefore, the necessary proof having not been filed before the period prescribed in the rules, the case of the petitioner for alteration of date of birth deserves to be dismissed.

5. Heard the submissions advanced by the learned counsel on either side and perused the materials available on record.

6. The facts in the present case are not in dispute. The petitioner's school records as also the declaration filed by the petitioner along with the application reveal that the petitioner has stated his date of birth to be 17.6.1973. Though it is the contention of the petitioner that the declaration in the school records as to his date of birth has been made by his parents, who were illiterate and, therefore, the same requires to be corrected cannot be countenanced for the reason that the declaration made by the parents alone in the birth records is not in issue. Even after the petitioner completing his Master's Degree, the petitioner has made an application, wherein, he, in his own handwriting has entered the date of birth as 17.6.1973 and has declared that all the information given are true and correct to the best of his knowledge. Once such a declaration is made, the petitioner is bound by the declaration. The petitioner has not put forth any plausible explanation for giving the said date of birth in the application along with his declaration. That being the case, the petitioner is estopped from canvassing that the illiteracy of his parents was the reason for the erroneous entry in his school records, as even after obtaining his Master's degree, the petitioner, under his own hand has declared his date of birth as 17.6.1973. Mere ignorance of the petitioner as to the erroneous entry of the date of birth in the application form cannot be a ground to have his date of birth altered. Even otherwise, the civil court decree, which was obtained after a period of five years cannot be the basis for having the date of birth altered in the service records, as according to the Regulations, the representation for alteration of date of birth along with necessary proof thereof needs to be filed within the prescribed period of five years. In the case on hand, it is not in dispute that only at the fag end of five years, the petitioner has come out with a representation for alteration of date of birth and after rejection of the same for want of proof, the petitioner has gone before the civil court to obtain a decree. Therefore, the correct representation with all the relevant records was submitted before the respondents well after the period of five years and, therefore, rightly so, the respondents have rejected the application for alteration of date of birth, which warrants no interference.

7. In the above circumstances, this Court is not in a position to agree with the submissions advanced by the learned counsel for the petitioner and, accordingly, is of the considered opinion that no interference is called for with the impugned proceedings passed by the respondent.

8. For the reasons aforesaid, this writ petition is devoid of merits and, accordingly, the same is dismissed. However, in the circumstances of the case, there shall be no order as to costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

jrs

To

1. Tamilnadu Generation and Distribution Corporation Ltd,
Rep.by its Chairman cum
Managing Director,
New No.144, Anna Salai,
Chennai -2.
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Mettur Electricity Distribution circle,
Tamilnadu Generation and
Distribution Corporation Ltd,
Mettur Dam-1.
- +1 cc to M/s.Karthik Rajan Advocate sr27581

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