



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2020

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.No.22807 OF 2010

... Petitioner

N.P.Murugesan

Vs.

1.The Government of Tamilnadu
Rep by its Secretary
Department of School Education
Fort St.George, Chennai

2.The Joint Director of School Education,
(Higher Secondary)
Chennai-6

3.The Joint Director
(Revenue Administration)
Department of Revenue Administration
Disaster Management and Mitigation
Ezhilagam, Chennai-5

4.The Revenue Divisional Officer
Attur, Salem District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.27259/w2/E2/07, dated 16.11.2009 and quash the same.

For Petitioner : Mr.R.Subramanian

For Respondents: Mr.P.Raja, Govt.Advocate for R1 and 2

Mr.P.Chinnadurai, AGP for R3 and 4

O R D E R

Challenging the rejection order passed by the respondent refusing to alter the date of birth in service register, the petitioner is before this Court.



2. According to the petitioner, he was born 27.03.1972. However, both his parents were illiterates registered his date of birth in the school records as 15.06.1971. He completed his SSLC in the year March 1987. He was selected and appointed as B.T. Assistant through the competitive examination held by Teachers Recruitment Board on 18.07.2002. On coming to know that his original date of birth is only 27.03.1972, he made an application for alteration of date of birth on 27.02.2007, i.e to say within a period of five years under Rule 49 of the Tamil Nadu State and Subordinate Service Rules. Based on his representation, matter was referred to the 4th respondent Revenue Divisional Officer for enquiry. The 4th respondent after elaborate conduct of enquiry in the native place of petitioner and after verifying the registration of birth with the Register of Birth and Death has found that the actual date of birth of the petitioner to be 27.03.1972. Even though, it was found by the 2nd respondent that the petitioner was eligible to appear for SSLC examination on completion of 14 years and that his date of birth as found by the 4th respondent as 27.03.1972, was also correct whe has rejected the request on the basis that the petitioner was admitted prematurely to first standard even before completing five years of age. Aggrieved over the same, the petitioner is before this Court.

3. Learned Government Advocate based on the statements made in the counter affidavit would vehemently contend that the petitioner was ineligible to be admitted to first standard at that time as he had completed only 4 years 2 months and 10 days, it is contrary to the Government Order and hence his request cannot be acceded to and he prays for dismissal of the writ petition.

4. Heard the rival submissions.

5. At the outset, a perusal of the birth certificate issued by the Registrar of Births clearly shows that the date of birth of the petitioner is 27.03.1972. Such entries were made in the said register on 31.03.1972. The Revenue Divisional Officer who had enquired into the matter has given a clear finding that there is no alteration, scoring out or correction in the Register of births. In that view of the matter, it is very clear that the date of birth of the petitioner is 27.03.1972. Now that it has to be analysed as to whether the petitioner was eligible to appear in SSLC examination in the year 1987 and was eligible to get SSLC certificate.

6. Admittedly, the petitioner appeared in the SSLC examination in the year March 1987. If the original date of birth of the petitioner which is 27.03.1972 is taken into account, the petitioner had completed 15 years of age at the



time of appearing for SSLC examination. Admittedly, the respondents have also given a categorical finding that the petitioner is eligible to appear for SSLC examination and is fully qualified. If that be so, it has to be seen only whether Rule 49 of Tamil Nadu State and Subordinate Service Rules has been duly complied by the petitioner. The petitioner was selected to the post of B.T. Assistant on 18.07.2002 and he made his representation on 27.02.2007 for alteration of date of birth under Rule 49 of the above said Rule i.e within a period of four and half years. When the application is made within a period of five years and the competent authority has found his request is genuine, the 1st respondent has to accept the same and it should not be rejected on flimsy reasons. Therefore, the petitioner is entitled to get his date of birth altered in his service register and all other consequential service benefits on his retirement. Hence, the impugned order passed by the 2nd respondent in Na.Ka.No.27259/w2/E2/07, dated 16.11.2009 is set aside and a direction is given to the 2nd respondent to effect the alteration of date of birth in the service register as requested by the petitioner.

In fine, the writ petition is allowed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government Department of School Education
Fort St.George, Chennai

2.The Joint Director of School Education,
(Higher Secondary),Chennai-6

3.The Joint Director(Revenue Administration)
Department of Revenue Administration

Disaster Management and Mitigation, Ezhilagam, Chennai-5

4.The Revenue Divisional Officer
Attur, Salem District.

+ 1 cc to Mr. R. Subramanian, Advocate Sr.8864

+ 1 cc to Government Pleader Sr.9995

W.P.NO.22807 OF 2010

RJI (CO)

EU 9.7.2020