



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2020

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.23957 OF 2013

AND

MP.NO.2 OF 2013

R.Vijayakumar

.. Petitioner

Vs

1. The Government of Tamil Nadu
represented by its Secretary,
Rural Development Department,
Fort St.George, Chennai - 600 009.
2. The Principal Commissioner-cum-
Commissioner for Revenue Administration,
Chepauk, Chennai-600005.
3. The Director of Rural Development Department,
Panagal Building,
Saidapet, Chenna-600 015.
4. The District Collector,
Cuddalore District.
5. The Revenue Divisional Officer,
Vridhachlam,
Cuddalore District.

.. Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the 4th respondent in his proceeding Na.Ka. No.PA4/ 3818/2012 dated 9.8.2013 and quash the same and consequently direct the 4th respondent to alter the petitioner date of birth from 28.8.1955 to 1.10.1956 based on the Application dated 8.5.1989 so as to enable to petitioner herein to continue in service until 1.10.2014.

For Petitioner : M/s.K.Raja

For Respondents : Mr.J.Ramesh, AGP



O R D E R

The prayer sought for in the Writ Petition is to call for the records relating to the 4th respondent in his proceeding Na.Ka. No.PA4/ 3818/2012 dated 9.8.2013 and quash the same and consequently direct the 4th respondent to alter the petitioner date of birth from 28.8.1955 to 1.10.1956 based on the Application dated 8.5.1989 so as to enable to petitioner herein to continue in service until 1.10.2014.

2. The writ petition has been filed challenging the impugned order passed by the 4th respondent by stating the reason that the petitioner has made application for alteration of his Date of Birth under Rule 49(b) of Tamil Nadu State Subordinate Service Rules. But the said application was rejected by the respondent on the ground that the writ petitioner has not made application within a prescribed period of time.

3. Heard both sides and perused the documents available on record.

4. According to the writ petitioner, the writ petitioner was appointed as Junior Assistant on 10 (a) (i) basis on 04.05.1984 and his service was regularised w.e.f. 25.06.1984 vide G.O.Ms. No. 996 dated 22.09.1984 and therefore his application for alteration of date of birth dated 08.05.1989 was well within the time of five years after entry into regular service.

5. The learned Additional Government Pleader has submitted that the petitioner has not submitted his application for alteration of date of birth within a period five years as per Rule 49(b) of Tamil Nadu State and Subordinate Service Rules. He has further submitted that the petitioner was appointed on temporary basis 04.05.1984 and his service was also came to be regularised and therefore, the said date should be considered as date of entry into service. The petitioner ought to have submit his explanation within a period of five (5) years from the date entry into service, but the petitioner had submitted his application dated only on 08.05.1989 i.e, after five years of entry into Government service. Subsequently, he was permitted to retire on attaining the age of superannuation on 31.08.2013 as per the date of birth entered in his Service Register i.e 28.08.1955. In view of the above, the impugned order passed by the 4th respondent is valid and does not require any interference.

6. The learned counsel for the petitioner seeks liberty before this Court to approach the Government under Section 58 of the Government Servants Conduct Rules.

7. In view of the submissions made by the learned counsel



for the petitioner and considering the fact that the writ petitioner has made application four days after lapse of five years, this Court is inclined to grant liberty to the writ petitioner. Accordingly, the writ petitioner is granted liberty to approach the concerned authorities to seek remedy.

With the above, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Rural Development Department,
Fort St.George, Chennai - 600 009.
2. The Principal Commissioner-cum-
Commissioner for Revenue Administration,
Chepauk, Chennai-600005.
3. The Director of Rural Development Department,
Panagal Building,
Saidapet, Chenna-600 015.
4. The District Collector,
Cuddalore District.
5. The Revenue Divisional Officer,
Vridhachlam, Cuddalore District.

+1cc to M/s.K.Raja, Advocate, S.R.No.1706

W.P.No.23957 of 2013
and M.P.No.2 of 2013

VD(CO)
CS/08/07/2020