



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.2778 of 2013

S.Nainar

... Petitioner

Vs.

1.The Traffic Manager,
V.O.Chidambaranar Port Trust,
Tuticorin.

2.The Public Information Officer,
V.O.C.Port Trust,
Tuticorin.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the second respondent in No.S-7/44/79/2012-P1/D 3140, dated 11.12.2012 and quash the same and consequently direct the first respondent to dispose of the petitioner's representation dated 20.11.2012 within the time frame as fixed by this Court.

For Petitioner : Mr.R.Vijayakumar

For Respondents : Mr.A.Arivuchandran
for R.1

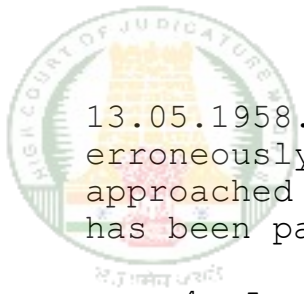
: No Appearance for R.2

ORDER

The order of rejection dated 11.12.2012 issued by the Public Information Officer of the V.O.Chidambaranar Port Trust is under challenge in the present writ petition.

2. The impugned order is a reply given under the Right to Information Act with reference to the application submitted by the writ petitioner on 20.11.2012. The grievance of the writ petitioner is that he was appointed as Masdoor during the year 1981 in the erstwhile Tuticorin Stevedores Association (Labour Pool). He was continuously working in the said Association and as per the service records, his date of birth was recorded as 01.01.1954.

3. Learned Counsel appearing on behalf of the writ petitioner reiterated that the actual date of birth of the petitioner is



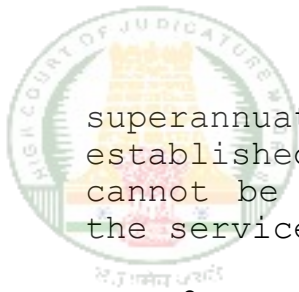
13.05.1958. In view of the fact that his date of birth was erroneously entered in the service records, the petitioner approached the first respondent during the year 2011 and no order has been passed till today.

4. Learned Counsel appearing on behalf of the first respondent disputed the said contention stating that earlier the writ petitioner filed a writ petition in W.P.No.2255 of 2013 and the Port Trust passed an order and the said order has not been challenged by the writ petitioner.

5. Considering the above facts, this Court is of the opinion that the petitioner was appointed as Masdoor in the year 1981 at Tuticorin Stevedores Association (Labour Pool). He was continuing in the said Association as Masdoor till the said Association was taken over by the Tuticorin Port Trust Cargo Handling Labour Pool (TPTCHLP) with effect from 01.01.2000. From the year 1981 to 2000, the petitioner was working as Masdoor and his date of birth in all his records was entered as 01.01.1954. The petitioner had not taken any effort to alter his date of birth when he was working with the Tuticorin Stevedores Association (Labour Pool). Subsequently, after the merger of the Tuticorin Stevedores Association (Labour Pool) with the Tuticorin Port Trust Cargo Handling Labour Pool (TPTCHLP), the rules were also came into force and after a lapse of 11 years, in the year 2011, the petitioner submitted his application seeking alteration of his date of birth. The contention of the petitioner is that no order has been passed. Per contra, learned Counsel appearing on behalf of the first respondent states that the order was passed and the same was not challenged by the writ petitioner.

6. May that it be, this Court is of the considered opinion that the right of the writ petitioner to claim alteration of his date of birth is to be considered, if an employee who joined in service is of an opinion that the entry of date of birth in the service records is erroneous, then he is expected to alter the same within a reasonable period of time. It is not as if an employee can submit an application seeking alteration of date of birth during fag end of his service. Even in the absence of any rules in force, an employee is bound to submit or redress his grievance within a reasonable period of time.

7. The Honourable Supreme Court of India in plenty number of judgments emphasized such a stale claims for alteration of date of birth cannot be entertained more specifically during the fag end of the service of an employee. Thus all such grievances are to be redressed within a reasonable period of time. Even after a merger of Tuticorin Stevedores Association (Labour Pool) with the Tuticorin Port Trust Cargo Handling Labour Pool (TPTCHLP) with effect from 01.01.2000, the petitioner had not taken any steps and he approached the first respondent only during the year 2011. During the pendency of the writ petition, the writ petitioner attained the age of



superannuation and retired from service. This being the factum established, such belated claim for alteration of date of birth cannot be entertained and more specifically during the fag end of the service or after the retirement.

8. In view of the above, the Writ Petition is devoid of merits and the same is dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SSL

To

1.The Traffic Manager,
V.O.Chidambaranar Port Trust,
Tuticorin.

2.The Public Information Officer,
V.O.C.Port Trust,
Tuticorin.

+1 CC to M/s.A. ARIVUCHANDRAN, Advocate (SR-19949[F] dated
13/10/2020)

W.P. (MD)No.2778 of 2013

13.10.2020

SSS (CO)

NR (28/10/2020) 3P : 4C