



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.06.2020

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.6131 of 2020 and
WMP(MD).No. 5321 of 2020

M. Cecil

Petitioner

vs.

1.The Principal Secretary,
Commissioner of Revenue Administration,
Chepakam, Chennai - 600 005

2.The Director General of Police,
Tamil Nadu,
Chennai - 600 004.

3.The Superintendant of Police,
Nagercoil,
Kanniyakumari District.

Respondents

PRAYER:- This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from passing order to retire the petitioner from his service on 30.04.2020, while pending consideration of his application dated 27.12.2012, on the file of the first respondent.

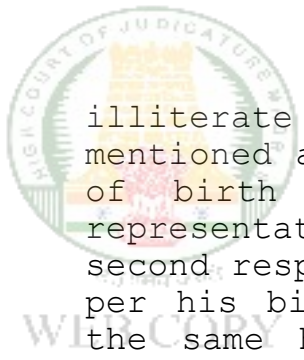
For Petitioner : Mr.T. Vadivelan

For Respondents : Mrs. J. Padmavathi Devi
Special Government Pleader

ORDER

This Writ Petition has been filed for issuing a Writ of Mandamus forbearing the respondents from passing order to retire the petitioner from his service on 30.04.2020, while pending consideration of his application dated 27.12.2012.

2. The case of the petitioner is that he was appointed as Junior Assistant in the office of the second respondent through TNPSC on 04.02.2010 and at present he was working as an Assistant in the third respondent office. His original date of birth as per the birth certificate is 02.05.1963, but, due to inadvertent mistake and

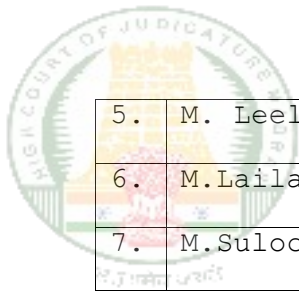


illiterate of his parents, the date of birth has been wrongly mentioned as 28.04.1962. While, he came to know about that his date of birth has been wrongly mentioned as 02.05.1963, sent a representation to the first respondent on 27.12.2012, through the second respondent to alter his date of birth in the certificates, as per his birth certificate as 02.05.1963 instead of 28.04.1962 and the same has been pending for consideration till date. In such circumstances, the third respondent is preparing to retire him from his service on 30.04.2020. If his date of birth will be altered by the first respondent on the basis of his application dated 27.12.2012, his retirement will be postponed to next year i.e., on 30.05.2021. Hence, he has filed the present Writ Petition for issuing a direction to the respondents to consider his representation dated 27.12.2012 and pass appropriate orders on the same.

3. Mrs. J. Padamavathy Devi, learned Additional Government Pleader, who took time for getting instructions, produced a proceeding of the first respondent dated 24.03.2020, wherein it has been served on the petitioner on 30.04.2020.

4. On perusal of the said order, it was found that the petitioner's application dated 27.12.2012 was considered for altering his Date of Birth as 02.05.1963 instead of 28.04.1962. The Sub Collector, Padmanabhapuram has conducted an enquiry by examining the petitioner's father, mother, brother, sisters and Headmasters of the School where he has studied and birth and death Registrar of Ezhudesam Municipality, native of the petitioner's Village and Village Administrative Officer of the Ezhudesam.P village and Aarudesam. The Revenue Divisional Officer, Padmanabapuram, by its letter dated 30.10.2015 has reported that the date of birth of the petitioner and his siblings were verified with the original birth registers and the details of the petitioner's parents, petitioner and her siblings are as follows:

S. No .	Name/ Age/ Residence	Relation Ship	Date of Birth as per School / College Certificat es	Date of Birth as per birth certificate	Educati onal Qualfic iation	Occupation
1.	R. Muthunayakam	Father	-	-	-	Coolie
2.	S. Kunjammal	Mother	-	-	-	House wife
3.	M.Christober	Elder brother	05.04.1959	-	DEME	Mechanic, Tamil Nadu Transport Departmnt, Marthandom Depot
4.	M.Cecil	Petitioner	28.04.1962	02.05.1963	M.A.	Assistant, Tamil Nadu Police Depot



5.	M. Leelabai	Younger Sister	01.04.1965	-	4 th std.,	House wife
6.	M.LailaChriatal	Younger sister	30.04.1968	11.07.1969	12 th std.,	House wife
7.	M.Sulochanabai	Younger sister	22.05.1971	12.07.1971	B.A.,	House wife

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5. After enquiry, the Revenue Divisional Officer has stated that the birth of sisters alone has been registered in the office of the Birth and Death Registrar. On enquiry, it was found that the petitioner's parents were illiterate and that there was no record to prove they had any educational qualification. Hence, the date of birth of the petitioner has been entered in the service register, based on the school certificates. Further, the petitioner has submitted the birth certificate issued by the Sub Registrar, Kollencode as proof to alter his date of birth. The Revenue Divisional Officer has reported that the birth certificate along with the birth register was verified and the birth of a male child born to Muthunayakam and Kunjammal born on 02.05.1963 has been registered and the name of the child has been mentioned as "M. Cecil" and the name entry is found to be different from the original entry and could have been made on a later date without any proceeding or initial of the concerned official.

6. Further, on enquiry it was found that the Birth and Death Registrar, Ezhudesam Municipality has informed that the birth of M.Cecil has been registered in P.No.21204 of the year 1963 Ezhudessam Village Birth Register, Volume No. 23 (from 96/1963 to 195/1963), which is now being maintained in the office of the Sub Registrar, Kollencode and that the name of the child has been inserted later. The Birth and Death Registrar, Ezhudesam Municipality has also stated that as per the Government rules, the name of the child should be registered and initialized by the concerned Birth and Death Registrar, within a year of the birth, failing which, after an year the name of the child should be registered only by the orders of the Deputy Commissioner of Health Services. The name of the petitioner has been inserted in the birth register without any such orders or initial of the Birth and Death Registrar and it is not known by whom or when the name entry has been made. Further, the birth of the child has been informed by Muthunayakam, father of the petitioner, but, the signature of the informant is not found in the birth register. Hence, the Registrar of Birth and Death has informed that rules have not been followed in the insertion of the petitioner's name in the birth certificate.

7. The Revenue Divisional Officer has further stated that on enquiry of the Head Mistress, Government Middle School, Pallikal, it was found that the petitioner has mentioned in the school records as 28.04.1962 and that as per the school procedures any correction in the school registers have to be authorised and initialised by the concerned officer Head / Head Master. On the contrary, the name M.



Cycil in page No.9 of the year 1961 - 1985 students Admission Register has been corrected in blue ink as "M.Cecil" and the initial of the father has also been corrected. The Head Mistress has also reported that the petitioner is eligible for admission in first standard as per the date of birth 28.04.1962, but if the date of birth of the petitioner is presumed as 02.05.1963, he would not be eligible for admission in first standard. The Revenue Divisional Officer has further reported that while appearing for the S.S.L.C., Examination in March 1978, the petitioner had completed 14 years and 11 months, as per the date of birth mentioned in the school certificate, as has completed 15 years as per the date of birth claimed by him.

8. The Revenue Divisional Officer in the letter, dated 24.04.2017 has reported that the records have been tampered by inserting the name of the petitioner without any authorization and hence has recommended to reject the request to alter the date of birth, since it is based on the birth register that has been tampered with by inserting the name of the petitioner without any authorization and hence, has recommended to reject the request to alter the date of birth, since it is based on the birth register that has been tampered with.

9. As per the impugned order, it is clear that the petitioner was born on 02.05.1963 and the same has been registered on 06.05.1963 in Page No.21204, Volume 23 (from 96/1963 to 195/1963), which was informed by his father. Section 14 of the Registration of births and deaths Act, 1969 reads as follows:

" 14. Registration of name of child: Where the birth of any child has been registered without a name, the parent or guardian of such child shall within the prescribed period give information regarding the name of the child to the Registrar either orally or in writing and thereupon the Registrar shall enter such name in the Register and initial and date the entry."

10. The name of the petitioner M.Cecil inserted in page No.21204 of the year 1963 Ezhudesam Village Birth Register. The name entry is found to be different from the original entries and seem to have been inserted on later date, without any proceeding or initial of the concerned officials. The signature of the informant is also not found in the birth register. This is in contravention to Section 14 of the Registration of Births and Deaths Act, 1969. The date of birth of the petitioner has been mentioned as 28.04.1962 in the school certificates, but, he has relied upon the certificates issued by the Sub-Registrar, Kollencode only on 04.05.2012, after a lapse of 50 years with an intention to alter his date of birth. Further, the Headmistress of the school, where the petitioner studied has stated that the entries in the school register seem to have been tampered, it is not a valid document and hence it cannot be considered.



11. The respondents have rejected the case of the petitioner stating that the petitioner has not produced any conclusive proof along with birth certificate issued by the Sub Registrar, Kollencode. In view of the grounds enunciated above, it is recommended to reject the request of the petitioner viz., M.Cecil, to alter his date of birth as 02.05.1963 instead of 28.04.1962.

12. The learned counsel appearing for the petitioner submitted that only after filing of the Writ Petition, this order has been passed by the respondents on 24.04.2020 and it has been served on the petitioner 30.04.2020 and hence, the prayer of the petitioner has become infructuous. Further, the petitioner seeks liberty to challenge the order of rejection .

13. On perusal of the entire order passed by the first respondent dated 24.04.2020, this Court is of the view that since the petitioner has not produced any other conclusive proof other than the birth certificate issued by the Sub-Registrar, Kollencode, the rejection of the request of the petitioner, dated 27.12.2012 to alter his date of birth as 02.05.1963 instead of 28.04.1962 is correct. Hence, this Writ petition is dismissed. However, the petitioner is given liberty to challenge the order of rejection dated 24.03.2020 passed by the first respondent in the manner known to law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Deputy Registrar (Accounts)

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Sub Assistant Registrar(CS)

trp

Note:- In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To

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