



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATE ON WHICH RESERVED :21.07.2020**

**DATE ON WHICH PRONOUNCED :04.08.2020**

**CORAM:**

**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN**

**and**

**THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM**

**W.A(MD)No.448 of 2020**

**and**

**C.M.P. (MD)No.3192 of 2020**

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- 1.The Director of School Education  
DPI Campus, Chennai-06.
- 2.The Commissioner of Revenue Administration,  
Chepauk, Chennai-5.
- 3.The Revenue Divisional Officer,  
Nagercoil, Kanyakumari District.
- 4.The Chief Educational Officer,  
O/o.the Chief Educational Officer,  
Kanyakumari District. ... Appellants / 1to 4 Respondents  
Vs.  
A.Brinda ... Respondent / Writ petitioner

**Prayer:** Writ Appeal filed under Clause 15 of Letters Patent, to set aside the impugned order dated 18.05.2020 passed in W.P.(MD)No.6202 of 2020.

Prayer in WP(MD)No.6202 of 2020

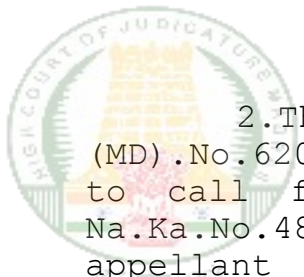
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To call for the records pertaining to the impugned order in Na.Ka.NO.48613/W1/E1/2008 dt. 30.04.2020 on the file of the respondent No.1 and the consequential impugned order in Na.Ka.No.1828/A1/2020 dt. 30.04.2020 on the file fo the respondent No.4, and quash the same as illegal and consequently for a direction directing the respondent NO.4 to permit the petitioner to discharge her duty in the post of P.A to Chief Educational Officer (Hr.Secondary) till 31.08.2020 in the light of the judgement and Decree of the Civil Court in O.S.No.551/2003 dt. 27.02.2006 .

For Appellants : Mrs.S.Srimathy  
Special Government Pleader  
For Respondent : Mr.T.Lajapathi Roy

**JUDGMENT**

(Judgment of the Court was made by **P.RAJAMANICKAM, J.**)

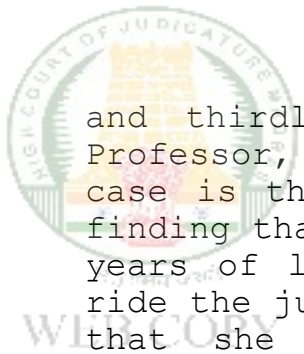
This Writ Appeal has been filed by the official respondents against allowing of the writ petition in W.P.(MD).No.6202 of 2020, dated 18.05.2020.



2.The respondent herein has filed a writ petition in W.P. (MD).No.6202 of 2020 for issuance of writ of certiorarified mandamus to call for the records pertaining to the impugned order in Na.Ka.No.48613/W1/E1/2008, dated 30.04.2020 on the file of the appellant No.1 and the consequential impugned order in Na.Ka.No.1828/A1/2020, dated 30.04.2020 on the file of the appellant No.4 and quash the same as illegal and consequently for a direction, directing the appellant No.4 to permit the writ petitioner to discharge her duty in the post of P.A to Chief Educational Officer (Higher Secondary) till 31.08.2020 in the light of the judgment and decree of the Civil Court in O.S.No.551/2003, dated 27.02.2006.

3.For the sake of convenience, the parties are referred to as described in writ petition.

4.The case of the writ petitioner is that she was appointed as Post Graduate Assistant on 22.02.1999 through direct recruitment. Her further case is that she was born on 24.08.1962, but in school records, her date of birth was recorded as 11.04.1962. Hence, she applied for rectification of the date of birth in her educational certificates and service records. But, there was no response. Hence, on 14.12.2001, she sent a notice under Section 80 of Civil Procedure Code to the respondent Nos.1, 4 and the District Collector, Kanyakumari District for rectification of her date of birth in the relevant records. Even thereafter, there was no response. Hence, she filed a suit in O.S.No.551/2003 on the file of the Principal District Munsif, Nagercoil for declaration of her date of birth as 24.08.1962 and for mandatory injunction directing the defendants therein to make necessary corrections in the relevant records. The said suit was decreed on 27.02.2006, after full trial. As against the same, the defendants therein did not prefer any appeal. Hence, the judgment and decree passed by the learned Principal District Munsif, Nagercoil attained finality. Despite such decree, the respondents 1 and 4 did not take any steps to rectify the date of birth. Hence, the writ petitioner has sent a reminder/representation dated 14.06.2007 to the respondents 1 & 4 requesting them to implement the Civil Court's judgment and decree. Thereafter, the first respondent has forwarded the proposal to the second respondent. The second respondent, in turn, has forwarded the said proposal to third respondent for conducting enquiry and report. Accordingly, the third respondent submitted a report dated 12.12.2015 stating that the writ petitioner's correct date of birth is 24.08.1962. Despite such a favourable report submitted by the third respondent, the first respondent has issued the impugned order dated 30.04.2020, in which, he has rejected the petitioner's application on the ground that the second respondent has not recommended for the reason that the writ petitioner has belatedly submitted her application only on 14.06.2007 i.e after 5 years from the date of initial appointment; secondly, assuming that the writ petitioner's date of birth is 24.08.1962, she would have joined



and thirdly, since the writ petitioner's father was a College Professor, he could not have given wrong date of birth. Her further case is that the competent Civil Court has rendered a categorical finding that she applied for rectification of date of birth within 5 years of limitation and hence, the second respondent cannot override the judgment of the competent civil court. Her further case is that she was unjustly and unlawfully removed by the fourth respondent by way of issuance of consequential impugned order dated 30.04.2020 and whereas, she is entitled to continue in service till 31.08.2020, in view of the correct date of birth i.e 24.08.1962.

5.The learned Single Judge, after considering the materials placed before the Court, has held that in view of the judgment and decree passed by the Civil Court in O.S.No.551/2003, the respondents ought to have allowed the writ petitioner to continue in service. Accordingly, the learned Judge has set aside the impugned order in Na.Ka.No.48613/W1/E1/2008, dated 30.04.2020, passed by the first respondent and the consequential impugned order in Na.Ka.No.1828/A1/2020, dated 30.04.2020 passed by the fourth respondent and directed the respondents to pass appropriate orders permitting the writ petitioner to continue her services in the light of the judgment and decree passed by the Civil Court. With the aforesaid direction, the learned Judge has allowed the writ petition.

6.Feeeling aggrieved, the official respondents in the writ petition have filed the present writ appeal.

7.Heard Mrs.Srimathy, learned Special Government Pleader appearing for the appellants and Mr.T.Lajapathi Roy, learned counsel appearing for the respondent/writ petitioner.

8.The learned Special Government Pleader appearing for the appellants has submitted that as per G.O.Ms.No.1296, Education Department, dated 16.06.1960, any child seeking admission in first standard should have completed 5 years of age as on 31<sup>st</sup> July of admission year. If the date of birth is presumed as 24.08.1962, as claimed by the writ petitioner, she would have completed only 4 years 11 months and 7 days as on 31.07.1967 and in such a case, she would not be eligible to admission into first standard.

9.The learned Special Government Pleader further submitted that as per Rule 49 of the Tamil Nadu State and Subordinate Service Rules and presently governed by Section 59 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, an application for rectification of date of birth shall be filed within 5 years from the date of entry into service. She further submitted that in this case, the writ petitioner entered into service on 22.02.1999, but she submitted application for rectification of date of birth only on 14.06.2007 i.e after passage of 5 years from the date of entry into Government service and hence, the first



respondent has rightly rejected the petitioner's request to rectify the date of birth.

10.The learned Special Government Pleader further submitted that since the correction of date of birth in the Service Register is also a service related issue, the Civil Court has no jurisdiction to entertain the suit. She further submitted that without considering the aforesaid facts, the learned Single Judge has allowed the writ petition and directed the respondents to comply the directions of the Civil Court and therefore, she prayed to allow the writ appeal and set aside the order passed in W.P.(MD).No.6202 of 2020 and dismiss the said writ petition.

11. The learned Special Government Pleader in support of the aforesaid contentions, relied upon a Division Bench decision in **Mr.M.Ramasubramani Vs. Central Administrative Tribunal rep. By its Registrar, High Court Buildings, Chennai- 6000 104 and others.** (W.P.Nos.16062/2010 on the file of the High Court of Madras dated 30.09.2013)

12.Per contra, Mr.T.Lajapathi Roy, learned counsel for the respondent/writ petitioner has submitted that the writ petitioner was born on 24.08.1962 and the same has been registered with the Birth and Death Registrar on 05.09.1962 itself. He further submitted that even though the writ petitioner's father was working as a Professor in a College, due to large number of children, he mistakenly gave a date of birth to the petitioner as 11.04.1962 at the time of admission in a school. He further submitted that the writ petitioner came to know about the said mistake only at the time of applying for the post of P.G Assistant in the year 1999 and hence, she immediately submitted an application to the first respondent/first appellant for rectification of her date of birth. He further submitted that since there was no response, the writ petitioner has issued a notice under Section 80 C.P.C on 14.12.2001. He further submitted that after receipt of the said notice, the first appellant herein has called for certain documents and accordingly, the writ petitioner has submitted the relevant records. But, thereafter, no order has been passed on her application and hence, she filed a suit in O.S.No.551/2003 on the file of the Principal District Munsif, Nagercoil to declare her date of birth as 24.08.1962 and consequently to direct the defendants therein to make necessary alterations in the relevant records by way of mandatory injunction. He further submitted that the learned Principal District Munsif, Nagercoil, after full trial, by the judgment dated 27.02.2006, has decreed the said suit.

13.The learned counsel for the writ petitioner has further submitted that even though the Civil Court gave a positive direction to the defendants therein, they have not complied with the said direction and hence, the writ petitioner has sent a reminder on



14.06.2007 to the appellants 1 & 4 herein requesting them to implement the Civil Court's judgment and decree. Only thereafter, the first respondent has forwarded the proposal to the second respondent. The second respondent, in turn has forwarded the said proposal to the third respondent, for conducting enquiry and report. Accordingly, the third respondent, after conducting enquiry, has submitted a report dated 12.12.2015 in favour of the writ petitioner, in which, it is categorically stated that her date of birth is 24.08.1962. Despite such favourable report, submitted by the third respondent, the second respondent, recommended to reject the writ petitioner's application and accordingly, the first respondent by the impugned order, dated 30.04.2020, has rejected the petitioner's application and consequently relieved the writ petitioner from her service, as she attained superannuation.

14.The learned counsel for the writ petitioner has further submitted that the second respondent has recommended to reject the writ petitioner's application for the reason that she has belatedly submitted her application i.e after passage of 5 years from the date of initial appointment; secondly, if the date of birth of the writ petitioner is accepted as 24.08.1962, she would not have completed 5 years, while joining first standard in the school and thirdly, the writ petitioner's father was a College Professor and he could not have committed any mistake at the time of filling up of the date of birth, during school admission. He further submitted that the Civil Court, after considering the aforesaid contentions raised by the defendants, finally has decreed the suit and as against the same, the defendants did not file any appeal and as such, they are bound to comply the directions of the Civil Court decree.

15.The Learned counsel for the writ petitioner has further submitted that the writ petitioner, after joining the Government service, immediately, has submitted an application for rectification of her date of birth, but she is not having any proof to show that she immediately applied for rectification of her date of birth and in such circumstances, the notice which was issued under Section 80 C.P.C dated 14.12.2001 may be treated as an application for rectification of date of birth. If the said notice is taken as an application for rectification of date of birth, it has to be presumed that the writ petitioner submitted her application for rectification of date of birth within 5 years from the date of entry into service and therefore, he prayed to reject the contentions of the respondents that the writ petitioner did not apply for rectification of date of birth within 5 years of entry into service.

16.The learned counsel for the writ petitioner has further submitted that even assuming that the Civil Court's decree will not bind upon the appellants for correcting the date of birth in the service records, the first respondent, who is being the Appointing  
<https://hcservices.gov.in/hcservices/> should have applied his mind and took a decision



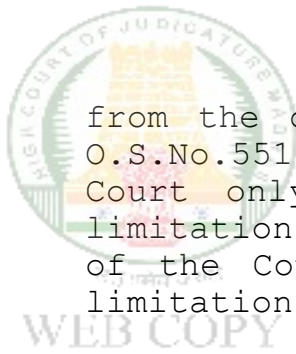
independently, but in this case, he simply accepted the recommendation of the second respondent and rejected the writ petitioner's application and therefore, on that ground alone, the impugned order passed by the first respondent is not sustainable. He further submitted that the learned Single Judge, after taking into consideration of the aforesaid facts, has rightly allowed the writ petition, directing the respondents to pass appropriate order, permitting the writ petitioner to continue her services in the light of the judgment and decree passed by the Civil Court and therefore, he prayed to dismiss the writ appeal.

17.Learned counsel for the writ petitioner, in support of his contentions, relied upon the decision in **Chavadi P.Chidambaram Vs State of Tamil Nadu and 3 Others (W.P.(MD).No.14460 of 2013 on the file of this Court, dated 23.01.2017)**.

18.This Court has carefully considered the rival submissions and perused the materials placed before this Court.

19.The writ petitioner has filed the writ petition mainly relying upon the judgment and decree passed in O.S.No.551 of 2003 on the file of the Principal District Munsif, Nagercoil, dated 27.02.2006. The writ petitioner has not enclosed a copy of the plaint filed in O.S.NO.551/2003. However, she has enclosed a copy of the judgment and decree passed in the aforesaid suit. A perusal of the copy of the judgment and decree passed in the aforesaid suit shows that the writ petitioner has filed the said suit to declare her date of birth as 24.08.1962 and consequently to direct the defendants therein to make necessary corrections in the relevant records with regard to her date of birth by way of mandatory injunction. In para No.7 of the judgment passed in O.S.No.551 of 2003, the learned District Munsif has stated that according to the plaintiff (writ petitioner), even though her father was an educated person, due to large number of children, he could not remember each and every one's date of birth in his mind and when her mother was away from her house, her father had admitted her into the school by furnishing incorrect date of birth. It is also stated in the said judgment that when the plaintiff obtained the Birth Certificate on 21.04.1999 for the purpose of applying for the post of District Educational Officer, the plaintiff (writ petitioner) claims to have gained knowledge as to the incorrect entry in the school records.

20.But in the affidavit filed in support of the writ petition, she has stated that she was appointed as Post Graduate Assistant on 22.02.1999 through direct recruitment. In such a case, she would have got knowledge about her real date of birth even before 22.02.1999. Even assuming that she got knowledge about her real date of birth only on 21.04.1999, she should have filed a suit for declaration within 3 years from that date. The suit for mandatory injunction also should have been filed within 3 years



from the date of knowledge. But a copy of the decree passed in O.S.No.551/2003 would show that the plaint was presented before the Court only on 30.07.2003. So, the suit is clearly barred by limitation. As per Section 3 of the Limitation Act, it is the duty of the Court to see whether the suit has been filed within the limitation, although limitation has not been set up as a defence.

21.At the time of filing of the suit, the Tamil Nadu State Administrative Tribunal was functioning. The State Administrative Tribunal was created/constituted by the State Government in terms of Section 15 of the Administrative Tribunals Act, 1985, with effect from 12.12.1988. As per Section 15(1) of the said Act, the Administrative Tribunal of the State shall exercise all the jurisdiction, powers and authority exercisable immediately before that day on and from the appointed day, by all courts (except Supreme Court). All recruitments and matters concerning recruitment to any civil service of the State or to any civil post under the State, are to be raised before the State Administrative Tribunal. Even pending matters, which were filed before the High Court or Civil Courts, were deemed to be transferred under Section 29 of the Act, except the appeals pending before the High Court. Thus, it is evident that on and after 12.12.1988, any dispute of State Government Servants can be agitated only before the State Administrative Tribunal till the abolition of Tamil Nadu State Administrative Tribunal. The State Administrative Tribunal was abolished only in the year 2006. Therefore, the Civil Courts will not have jurisdiction to entertain the suit with regard to the alteration of date of birth to State Government servants.

22.In **M.Ramasubramani Vs Central Administrative Tribunal, rep. By its Registrar, Madras Bench, High Court Buildings, Chennai-104 and 5 others (stated supra)**, a Honourable Division Bench of this Court, after referring to various judgments, has observed in para Nos.22 and 23 as follows:

"22.Thus, it is beyond doubt that the alteration of date of birth in the SSLC certificate based on the civil court decree can be ignored by the respondents by treating the decree passed by the Civil Court as void, as nullity of the decree can be pleaded at any stage of any proceeding and even collaterally in other courts. If we ignore the said correction made in the school certificate based on the civil court decree, there is no other material available to prove the petitioner's date of birth as 03.07.1958.

23.For the foregoing reasons, we are of the firm view that the petitioner cannot rely upon the decree passed in O.S.No.362 of 19994 to seek correction of his date of birth in the Service Register and the Department has rightly rejected the said request, which was affirmed by the Central Administrative Tribunal."



22.From the aforesaid decision also, it is clear that the writ petitioner cannot rely upon the decree passed by the civil court to seek correction of her date of birth in the service records. Hence, the official respondents can ignore the said decree by treating it as void and nullity.

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23.It is also to be pointed out that Rule 49 of the Tamil Nadu State and Subordinate Service Rules contemplates correction of date of birth of a Government Servant. The relevant portion of Rule 49(a) , (b) and (c)of the Tamil Nadu State and Subordinate Service Rules reads thus:-

**49.Alteration of date of birth:-** (a) If at the time of appointment, a candidate claims that his date of birth is different from that entered in his S.S.L.C Matriculation Register or School Records, he shall make an application to the Tamil Nadu Public Service Commission in case where the appointment is made in consultation with the Commission and in other cases to the appointing authority stating the evidence on which he relies and explaining how the mistake occurred. The application shall be forwarded to the Commissioner of Revenue Administration for report after investigation by an officer not below the rank of a Deputy collector and, on receipt of the report, the Tamil Nadu Public Service Commission or the appointing authority, as the case may be, shall decide whether the alteration of date of birth may be permitted or the application may be rejected:

Provided that in case of a candidate who was born outside the State of Tamil Nadu, the investigation through the Commissioner of Revenue Administration shall be dispensed with and the Tamil Nadu Public Service Commission, or the appointing authority, as the case may be shall examine and scrutinize the records that may be produced by the candidate and shall decide whether the alteration of date of birth may be permitted or the application may be rejected.

b)After a person has entered service, an application to alter the date of his birth as entered in the official records shall be entertained only if such an application is made within five years of such entry into service. Such an application shall be made to the authority competent to make an appointment to the post held by the applicant at the time of his application and shall be disposed of in accordance with the



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procedure laid down in sub-rule(a).

c) any application received after five years after entry into service or any application, which is not supported by entries in Secondary School Leaving Certificate, School, College or University records, birth extract from records of local bodies or military discharge certificate, shall be summarily rejected."

24. Now, the aforesaid provision has been incorporated in Section 59 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

25. In this case, though the writ petitioner has stated in her affidavit that she was appointed as a PG Assistant on 22.02.1999 and thereafter, she applied for rectification of her date of birth, which was wrongly mentioned in her educational certificates and service records, she has not mentioned as to when she applied for rectification of her date of birth. Further, she has not produced any material also to show that she applied for rectification of her date of birth. It is seen from the typed set of papers filed by the writ petitioner that she has issued notice under Section 80 CP.C on 14.12.2001. In that notice also, she has not stated that she already applied for rectification of her date of birth. Therefore, it is clear that without applying for rectification of her date of birth, she straight away sent notice under Section 80 C.P.C. The said notice cannot be treated as application, which was submitted under Rule 49 of the Tamil Nadu State and Subordinate Service Rules.

26. At this juncture, it is relevant to refer to the decision in the **Government of Tamil Nadu Vs. J. Ramasamy (2002 (2) CTC 577)**, wherein a Division Bench of this Court, has observed in paragraph Nos. 7 to 9 as follows:-

"7. In this case, the facts stare one in the eye. The official gave his date of birth as 19.4.1942 when he joined service and when he was to retire after his date of superannuation was computed with reference to the birth date given by him, he sought change in the birth date itself. He was certainly a person who had failed to make an application within five years after his entering service with regard to any correction that may have been warranted in his date of birth. He was clearly disentitled from making such application after the end of the five year period.

8. The Tribunal has chosen to regard Sub-clause (c) of Rule 49 as an exception to Rule 49(b). That view of the Tribunal is patently incorrect. Sub-clause (c) refers to applications received five years after entry into service. All such applications are



applications which are not supported by S.S.L.C., School, College or University records, birth extract from records of local bodies or military discharge certificates. All such applications are also to be summarily rejected. Sub-clause (c), therefore, deals with the applications which are to be summarily rejected. It does not deal with extending the period of limitation. Application which is filed within the period of limitation should be supported by any one of the documents mentioned in Sub-clause (c). Failure to furnish such documents in support of the application would result in the summary rejection of such application. Applications filed after the period of five years from the date of entry into the service are to be rejected on the sole ground that they have been filed beyond a period of five years. No other reason need be given.

9. The misreading of the Rule by the Tribunal has prompted it to treat the application filed thirty four years after the official had entered into service as a valid application. Surprisingly, it has gone further and has chosen to hold an enquiry into that application and has made an order altering the date of birth. This was clearly an impermissible exercise which the Tribunal should not have indulged in. Counsel for the official submitted that the Tribunal has powers to call for the records. That power is not meant to be used in a case where its use was not appropriate. Claims such as the one made before the Tribunal which should not have been entertained at all, cannot be given life by summoning documents from the custody of other Government Departments, then hold that contents of those documents justify the claim, and thereafter proceed to alter the date of birth, even when the very application seeking such alteration had been lawfully rejected by the Government in exercise of statutory power properly vested in it. Even if the State had erred in rejecting the application, the Tribunal could only have directed it to entertain the application and hold an enquiry, and no more."

27. From the aforesaid decision, it is clear that any application for altering the date of birth shall be entertained, only if filed within 5 years of entry into service and if such application is supported by documents, referred in Rule 49(c). It is also clear that any application filed within 5 years and not supported by documents, referred in Rule 49(c) shall be summarily rejected.



28. In this case, only on 14.06.2007, the writ petitioner has submitted an application to the Director of School Education, Chennai to rectify the date of birth in the relevant records, based on the decree passed by the Civil Court. As per Rule 49 of the Tamil Nadu State and Subordinate Service Rules, any application for alteration of date of birth in the service records shall be submitted within 5 years from the date of entry into service. Admittedly, the writ petitioner entered into service on 22.02.1999. In such a case, she should have submitted an application for rectification of her date of birth on or before 21.02.2004. But, she has submitted the application for rectification of the date of birth only on 14.06.2007. Hence, the Director of School Education has rightly rejected the said application.

29. The contention of the learned counsel for the writ petitioner that as per Section 59 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, the Appointing Authority has to pass orders independently, but, in this case, the Appointing Authority (The Director of School Education) has simply passed order relying upon the recommendations made by the Commissioner of Revenue Administration and therefore, the impugned order has to be set aside is also liable to be rejected.

30. Though the Revenue Divisional Officer, Nagercoil, Kanyakumari District (Respondent No.3) in his report has recommended to alter the date of birth of the writ petitioner, the Principal Secretary /Commissioner of Revenue Administration (2<sup>nd</sup> respondent) by his letter dated 12.03.2020 referring to G.O.Ms.No.1296 (Education Department), dated 16.06.1960 and also Section 59 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, recommended to reject the request of the writ petitioner. Since the second respondent is a Superior Officer, he is not bound to accept the report of the third respondent. He is entitled to take a different decision. The Director of School Education (first respondent), after considering the recommendation of the Principal Secretary/Commissioner of Revenue Administration, has passed the impugned order dated 30.04.2020. In the said order, he has stated that as per Section 59 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, an application for alteration of date of birth by a Government servant shall be submitted within 5 years from the date of entry into service. In this case, the writ petitioner entered into service on 22.02.1999, but she submitted the application for alteration of date of birth only on 14.06.2007. He further stated that if the date of birth of the writ petitioner is altered into 24.08.1962, she would not be eligible to admit in the first standard, as per G.O.Ms.No.1296 (Education Department), dated 16.06.1960. He also stated that the writ petitioner's father was a College Professor and hence, he would not have given a wrong date of birth at the time of admitting her in the school. Further, the learned counsel for the petitioner has not pointed out that the



impugned order. Therefore, it cannot be said that the first respondent has not independently taken a decision.

31. In **Chavadi P.Chidambaram Vs State of Tamil Nadu and 3 Others** (cited supra), the petitioner therein submitted an application for alteration of date of birth immediately after joining in service. But, in this case, there is no evidence that the writ petitioner has submitted application for alteration of date of birth within 5 years as stipulated under Rule 49 of the Tamil Nadu State and Subordinate Service Rules. Therefore, the aforesaid decision will not apply to the facts of this case.

32. In view of the Division Bench decision of this Court in **Mr.M.Ramasubramani Vs. Central Administrative Tribunal rep. By its Registrar, High Court Buildings, Chennai- 6000 104 and others** (cited supra), the Civil Court has no jurisdiction to direct the authorities concerned to alter the date of birth of a government servant. The decree passed by the Civil Court is void and nullity. Hence, the appellants have rightly rejected the request of the writ petitioner. Therefore, the order passed in W.P.(MD).No.6202 of 2020 dated 18.05.2020 is liable to be set aside.

33. In the result, this writ appeal is allowed. There is no order as to costs. The order passed in W.P.(MD).No.6202 of 2020, dated 18.05.2020 is set aside. Accordingly, the writ petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

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Sub Assistant Registrar(CS)

VS

**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.

+1 CC to M/s.Spl.GP ( SR-13680[F] dated 05/08/2020 )

+1 CC to M/s.T. LAJAPATHI ROY, Advocate ( SR-13624[F]

Judgment made in

**W.A(MD)No.448 of 2020**

**04.08.2020**

**SMA/14/08/2020/12P/3C**