



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P(MD)No.7509 of 2020

and

WMP(MD)Nos.6984 & 6986 of 2020

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Muniyandi

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Sivagangai.

2.The Block Development Officer,
Office of the Block Development Office,
Tiruppuvanam,
Sivagangai District.

3.The President,
Perumanoor Village Panchayat,
Tiruppuvanam Taluk,
Sivagangai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order dated nil issued by the third respondent and quash the same and consequently direct the respondents herein to permit the petitioner to join his duties under the third respondent panchayat as a Scavenger and work till the age of 60 years with all consequential benefits.

For Petitioner : Mr.V.Malaiyendran

For Respondents : Mrs.J.Padmavathy Devi,

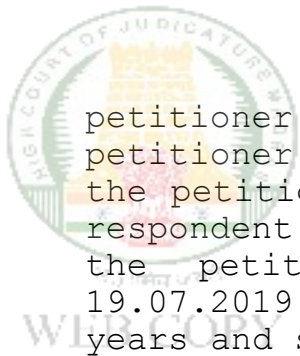
Special Government Pleader

ORDER

Mrs.J.Padmavathi Devi, learned Special Government Pleader takes notice on behalf of the respondents.

2. The prayer sought for in this writ petition is for a Writ of Certiorarified Mandamus calling for the records pertains to the impugned order dated Nil issued by the third respondent and quash the same and consequently direct the respondents to permit the petitioner to join duties under the third respondent panchayat as Scavenger .

3. The short facts of the case is that the petitioner joined duty as Scavenger in the third respondent Panchayat twenty years back. Exact date of joining has not been mentioned by the



petitioner and there is no appointment order produced by the petitioner. After having worked for more than twenty years, now the petitioner is inflicted with the impugned order where the third respondent found that as per the service records of the petitioner, the petitioner reached superannuation age sometime back on 19.07.2019 and as on 22.02.2020, he already completed the age of 62 years and seven months. Therefore, as per the Service Law governing the service conditions of the petitioner, he has been relieved from duty on superannuation, which he already attained. The said order passed by the third respondent panchayat is now under challenge in this writ petition.

4. Mr.V.Malaiyendran, the learned counsel appearing for the petitioner would submit that the date of birth mentioned in the Service Register of the petitioner is not correct and according to the petitioner, his correct date of birth is 21.02.1970 and in order to substantiate the said date of birth, he has produced Aadhaar Card issued by the Government of India for the petitioner and therefore, if the said date of birth is taken into account, which was fixed in medical certificate issued by a Doctor fixing the age of the petitioner, the petitioner will have more than ten years of service and therefore, the said order, which is impugned herein passed by the third respondent is liable to be interfered with.

5. I have heard Mrs.J.Padmavathi Devi, the learned Special Government Pleader appearing for the respondents, who would, on instructions, submit that as per the service records of the petitioner, the date of birth has been entered as 20.07.1957 and the superannuation age of the petitioner is 62 years, which he attained on 19.07.2019 itself. Therefore, beyond 19.07.2019, the petitioner cannot seek extension of his service. Since the said issue was unearthed by the third respondent only subsequently, ie., after seven months of the superannuation age, the impugned order has been issued relieving the petitioner on superannuation, which he already attained. Therefore, the learned Special Government Pleader would submit that absolutely there is no infirmity in the impugned order.

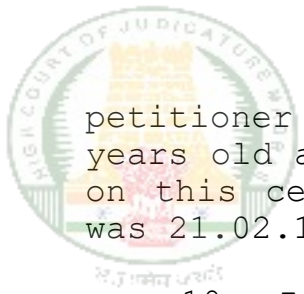
6. I have considered the said submissions made by both sides and perused the materials placed before this Court.

7. The controversy raised in this case is as to whether the date of the petitioner ie., 20.07.1957 as recorded in the Service register is correct or the date of birth ie., 21.02.1970 as claimed by the petitioner is the correct date of birth.

8. The learned counsel appearing for the petitioner, despite repeated queries raised by this Court, is not able to substantiate that on what basis the petitioner claimed his date of birth as 21.02.1970.

9. The learned counsel for the petitioner has relied upon a service certificate issued by a Government Doctor, which reads that the

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petitioner on examination of his body structure, appears to be 50 years old and such certificate was given on 09.06.2020. Only based on this certificate, the petitioner claims that his date of birth was 21.02.1970.

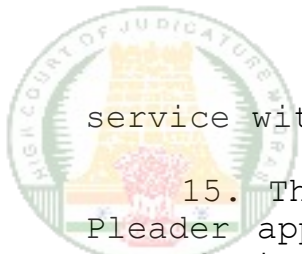
10. It is the further claim of the petitioner through the learned counsel for the petitioner that, in the Aadhaar Card issued by the Government of India to the petitioner, the date of birth of the petitioner has been entered as 21.02.1970 and therefore, that can be taken as proof of age and accordingly, if the said date of birth is taken into account, the petitioner's age will be 13 years less than the age based on the date of birth that was entered in the Service Register. Therefore, the petitioner cannot be said to be reached the superannuation age in the year 2019. Therefore, the present impugned order passed by the third respondent was not sustainable.

11. The said argument advanced by the learned counsel appearing for the petitioner is not based on any acceptable documents. Merely because a Doctor Certificate is issued, that cannot alter the date of birth of the petitioner that has been entered in the Service Register, which has been maintained by the employer for more than two decades.

12. If at all the petitioner's real date of birth, as claimed by him, is 21.02.1970, certainly, there must be some proof for the same like horoscope, birth certificate or any declaratory decree from the civil Court. In the absence of any of those documents available with the petitioner, merely based on the Doctor's certificate and based on which the entry was made in the Aadhaar Card, the petitioner cannot show the same as the proof to alter or erase the date of birth which has already been entered in the Service Register of the petitioner.

13. By virtue of this arguments made by the learned counsel appearing for the petitioner, the petitioner wanted to have extension of service for 13 more years and such kind of long extension of service cannot be granted without any valid document and legal basis. Therefore, this Court is not inclined to accept the argument advanced by the learned counsel appearing for the petitioner.

14. The learned Special Government Pleader appearing for the respondents has categorically stated that based on the instructions given by the respondents after verifying the petitioner's date of birth as entered in the Service Register, the petitioner's date of birth is only 20.07.1957 and the superannuation age of the petitioner is 62 years, which he already attained as early as on 19.07.2019. Therefore, already the petitioner had been working or was permitted to work beyond the superannuation age. Therefore, no



service without any basis.

15. The said submission made by the learned Special Government Pleader appearing for the respondents is acceptable as the service records is the only available record to verify the date of birth of the petitioner. It discloses that the date of birth of the petitioner is only 20.07.1957 and on that basis, if the superannuation is calculated, the petitioner has reached the superannuation on 19.07.2019. Therefore, on the date of passing the impugned order, the petitioner already crossed 62 years and 7 months. Hence, there is every justification on the part of the third respondent to pass the impugned order relieving the petitioner from duty as he already attained the superannuation. Accordingly, this Court feels that no interference is called for in the impugned order. As the writ petition completely fails, the same is liable to be rejected. Accordingly, the same is dismissed. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

pm

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:

- 1.The District Collector,
Office of the District Collector,
Sivagangai.
 - 2.The Block Development Officer,
Office of the Block Development Office,
Tiruppuvanam,
Sivagangai District.
 - 3.The President,
Perumanoor Village Panchayat,
Tiruppuvanam Taluk,
Sivagangai District.
- Copy to: The Special Government Pleader,
Madurai Bench of Madras High Court, Madurai.

W.P(MD)No.7509 of 2020

Dated:

13.07.2020

KK(06.08.2020) 4P 5C

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