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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

W.P.No.38270 of 2005

K.Thangavelu

...Petitioner

..Vs..

1. The Presiding Officer
Labour Court,
Salem,
Salem District.
2. The Management
Seshasayee Paper & Boards Limited
Pallipalayam
Namakkal District 638 007.

...Respondents

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent culminated in and by its proceedings in I.D.No.418 of 2000 dated 24.08.2004 quash the same and consequently direct the second respondent to reinstate the petitioner with continuity of service, back wages and retirement benefits by taking into consideration of the petitioner's date of birth of 02.07.1948.

For Petitioner : Mr.Ragul Adhithya

For Respondents : No appearance

ORDER

This writ petition has been filed to call for the records of the first respondent culminated in and by its proceedings in I.D.No.418 of 2000 dated 24.08.2004 quash the same and consequently direct the second respondent to reinstate the petitioner with continuity of service, back wages and retirement benefits by taking into consideration of the petitioner's date of birth of 02.07.1948.



2. The petitioner has come forward with the present writ petition challenging the award of the labour Court dated 24.08.2004. After 30 years from the date of entry into service, the petitioner has sought for correction in the Date of Birth, that too, after attaining the age of superannuation. The petitioner should have raised a dispute through Union much earlier while in service for alteration of his date of birth after the petitioner obtained a favourable decree from the Civil Court. The labour Court, after analysing the records came to the conclusion that he has woken up from slumber after 30 years, that too, on the eve of retirement and there is no explanation forthcoming for the inordinate delay.

3. According to the petitioner, his Date of Birth was 02.07.1941, but in the Higher Secondary School certificate, it was mentioned as 02.07.1948 and that there is seven years difference. The petitioner submitted that no educational qualification is required for joining the job. The petitioner relied upon the ESI card, which was not accepted by the labour Court as it was a very old document and that the identity card was also not clear. The labour Court further held that even though there is no provision for making an application for correction of Date of Birth in the standing order, it cannot be filed according to his own whims and fancies. Even if there is no provision of correction of Date of Birth the workman ought to have done it within a reasonable time. In the absence of any rule or any provision the general principle of refusing the relief on the ground of laches is generally applicable. The change of Date of Birth has been requested after long delay and that the entry in the service book at the time of entry into service would be the relevant date and the Management has maintained the service register in accordance with the standing orders which was treated to be a genuine one. The labour Court has rejected the request of the employee to correct the Date of Birth.

4. Labour Court has examined as many as 20 documents on the side of the workman and seven documents on the side of the Management and rendered a finding of fact which cannot be interfered with at this distant point of time. The employee ought to have raised the dispute through Union while he was in service for alteration of Date of Birth after production of necessary documents or getting an appropriate judgment and decree from the Civil Court. However, the employee chose to raise an individual dispute on the ground that he has been illegally removed from the employment. As stated supra as the award of the labour Court is not perverse and that the labour



Court has rightly looked into the records and held that the date of birth has been rightly entered in the service records. This Court is not inclined to grant the relief sought for by the petitioner/workman hence the same is dismissed. No costs.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dpq

To

1. The Presiding Officer
Labour Court,
Salem,
Salem District.

+1 CC to M/s.P.T.Ramadevi, Advocate, Sr.No. 35695.

W.P.No.38270 of 2005

GPL(CO)
LS(16/09/2021)