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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2021

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THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A.No.1464 of 2021
& C.M.P.No.9140 of 2021

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George, Chennai.
2. The Joint Director of School Education,
(Higher Secondary),
Chennai-6. .. Appellants/Respondents 1& 2

Vs.

1. N.P.Murugesan .. Respondent 1/Petitioner
2. The Joint Director
(Revenue Administration),
Department of Revenue Administration
Disaster Management and Mitigation,
Ezhilagam, Chennai-5.
3. The Revenue Divisional Officer,
Attur, Salem District. .. Respondents 2 & 3/
Respondents 3 & 4

Prayer : Writ Appeal filed under Clause 15 of Letters Patent
against the order dated 04.02.2020 in W.P.No.22807 of 2010.

For Appellants : Mr.C.Jayaprakash
State Government Counsel

For Respondent-1 : Mr.Nalini Chidambaram,
Senior Counsel for Ms.C.Uma

For Respondents 2 : No Appearance
and 3



J U D G E M E N T

(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)

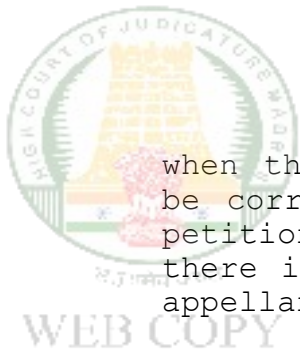
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The only question raised by the appellants in this appeal is whether the order of the learned Single Judge dated 04.02.2020 in W.P.No.22807 of 2010 allowing the claim of the writ petitioner to correct his date of birth in the Service Register is valid.

2. The claim of the writ petitioner is that he was born on 27.03.1972, but his parents, who were not educated, registered his date of birth as 15.06.1971 at the time of his admission in School. After education, he joined the appellants Department as B.T. Assistant on 18.07.2002. Subsequently, when he came to know that his date of birth was wrongly registered, he sought the appellants to alter the same correctly. His case was referred to the third respondent herein, who in turn, after due enquiry, admitted the genuineness in the claim. However, the request of the writ petitioner was sought to be rejected by the authorities on 10.07.2009, based on which, the second appellant rejected his claim via order dated 16.11.2009 and the same was put to challenge before the writ Court. Aggrieved by the order of the writ Court allowing the said claim, the appellants instituted the instant appeal.

3. Learned State Government Counsel appearing on behalf of the appellants contended that the date of birth given by the writ petitioner was alone recorded in his Service Register and without assigning any valid reason, he sought to alter the same. It is his further submission that if the claim of the writ petitioner is admitted, he could not have joined the 1st Standard and completed the S.S.L.C., in the age limit prescribed by the Government for the same and thus, appreciating all these aspects, the revenue authorities informed the Director of School Education to negative the claim of the writ petitioner, which has been implemented by the second respondent. But without going into the merits of all those submissions, the Writ Court allowed the prayer and thereby committed serious error in passing the order impugned.

4. The learned Senior Counsel appearing for the first respondent/writ petitioner submitted that the writ Court, after thoroughly scrutinizing the material documents placed by the writ petitioner, came to the conclusion that the authorities having admitted the correctness of the claim, ought not to have passed the order impugned therein merely saying that it would amount to availing the special concession twice. It is the further submission of the learned Senior Counsel for the respondent that



when the authorities found the claim of the writ petitioner to be correct, they ought to have granted the relief to the writ petitioner and their failure was set right by this Court and there is no ground, much less, substantial ground raised by the appellants to reverse the impugned order.

5. We have considered the rival contentions and perused the materials placed before us.

6. A perusal of the communication sent by the second respondent herein to the Director of School Education would make it crystal clear that the third respondent herein recommended the claim of the writ petitioner, as the said authority found that the writ petitioner's date of birth as per the records is 27.03.1972 and there is no addition, deletion or ratification of the same in the register. However, the second respondent proceeded to negate the claim of the writ petitioner on the ground that if his altered date of birth is taken into account, he would not have had the eligibility to get admission in the first standard and thus, he would not have completed SSLC in the age limit, as has been prescribed in the Government Orders governing the field. The other ground for rejection was that in the LIC policy dated 24.07.2006 also, his date of birth was mentioned as 27.03.1972.

7. Admittedly, there is no addition, deletion or ratification in the register maintained by the Government with respect to the writ petitioner's date of birth. The writ petitioner applied for correction of date of birth within the time limit prescribed under Rule 49 of the Tamil Nadu State and Subordinate Services Rules, i.e., within five years of joining into the service. The act of furnishing the wrong date of birth in the Service Register, so also in the LIC policy dated 24.07.2006, was before his knowledge about the correct date of birth, and the same cannot be put against the writ petitioner. In such circumstances, the request of the writ petitioner cannot be rejected like this.

8. Though the learned counsel for the appellants relied on the judgment of the Hon'ble Supreme Court in Union of India V. C.Ramasamy, to contend that the writ petitioner's claim ought to have been rejected by the writ Court, this Court is of the view that it is open to the appellants to proceed with the matter in accordance with law, if they have any material to prove that the writ petitioner had attained some advantage in appointment on account of his original date of birth, which was recorded in the Service Register. Thus, the appellants, while doing so, have to find out the factual position as in the above judgment in the case of the writ petitioner also.



9. In view of the foregoing reasons, there is no merit in the appeal and it is liable to be dismissed and accordingly, dismissed confirming the order of the writ Court. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Government of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai-600 009.
2. The Joint Director of School Education,
(Higher Secondary), Chennai-6.
3. The Joint Director
(Revenue Administration),
Department of Revenue Administration
Disaster Management and Mitigation,
Ezhilagam, Chennai-5.
4. The Revenue Divisional Officer,
Attur, Salem District.

Copy to:-

The Section Officer Judicial Department,
High Court Chennai.
(For Posting the case)

+1cc to Ms.C.Uma, Advocate, S.R.No.36759
+1cc to the Government Pleader, S.R.No.36592

W.A.No.1464 of 2021

MVS (CO)
CT(18/08/2021)