

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No. 11406 of 2014

Dr.R.Ramadurai

... Petitioner

Vs

1.State of Tamil Nadu

Rep. By The Secretary to the

Government of Tamil Nadu,

Department of Medical Services,

Chennai - 09.

2.The Director of Public Health &

Preventive Medicine,

DMS Complex, Teynampet,

Chennai.

3.The Dean, Chingleput Medical College,

Chingelpet.

4.The Director of Medical Education,

Poonamali High Road, Kilpauk,

Chennai - 10.

5.The Secretary,

Tamil Nadu State Public Service Commission,

Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to arrive at the total service as per the amended date of birth applicable to the petitioner by extending the service as per new policy of engaging experienced Doctor's up to the age of 70 years and the petitioner having already given his willingness to serve even in rural areas.

For Petitioner

: No appearance

For Respondents

: Mr.R.S.Selvam

Government Advocate

for R1 to R4

Ms.Niraimathi for R5

ORDER

There is no representation for the petitioner for the previous as well as today's hearings. Heard the learned Government Advocate appearing for the respondents 1 to 4 and the

learned counsel for the fifth respondent and also perused the materials brought on record.

2.The prayer made in this writ petition is to issue a mandamus, directing the respondents to arrive at the total service as per the amended date of birth applicable to the petitioner by extending the service as per new policy of engaging experienced Doctor's upto the age of 70 years.

3.The case of the petitioner is that he was appointed as Associate Professor in Chenglepet Medical College on 04.02.2002 in the second respondent and retired on 31.05.2011, on reaching the age of superannuation. While he was in service, he took steps to alter his date of birth as 09.09.1953 instead of 22.05.1953 in his service register, but the same is yet to be altered. He also made representations to the respondents requesting to extend his service, as per the new policy decision taken by the Central Government to the effect that the Union Ministry for Health and Family Welfare has allowed medical colleges to recruit teachers, who are 70 years old. Finding no response on the said representation, the petitioner has come up with this writ petition for the aforesaid relief.

4.Upon notice, the respondents filed a detailed counter affidavit, wherein, it is inter alia stated that the petitioner already filed a Writ Petition in WP.No.8115 of 2011 to alter his date of birth as 09.09.1953 instead of 22.05.1953. By order dated 27.04.2011, the said writ petition was disposed of by this Court in the following terms:

"4.Having regard to the facts and circumstances of the case and having regard to the fact that as per Rule 49 of the General Rules coming under Part II of the Tamil Nadu State and Subordinate Services Rules, if a person has made an application within five years from the date of entering the service, his date of birth shall be altered, the fifth respondent is directed to consider the case of the petitioner and pass appropriate orders regarding the alteration of date of birth of the petitioner within a period of two weeks from the date of receipt of a copy of this order. This writ petition is disposed of accordingly.

No costs. Connected miscellaneous petition is closed."

Pursuant to the aforesaid order, the request of the petitioner was considered, but was rejected by the Commissioner of Revenue Administration, in the absence of relevant records and the said decision was also communicated to the petitioner by the second respondent in his letter dated 25.05.2011. In the mean while, the petitioner preferred Contempt Petition No.812 of 2011, which was closed on 10.01.2012. While doing so, this Court in the interest of justice, permitted the petitioner to file necessary application in the prescribed format to the Director of Public

Health and Preventive Medicine, Chennai, within one week from the date of receipt of a copy of the order and on receipt of the same, the said authority viz., Director of Public Health and Preventive Medicine, Chennai, shall consider the same and pass appropriate orders, on merits and in accordance with law expeditiously. Accordingly, on receipt of the prescribed format, the petitioner duly filled up the same and sent to the Commissioner of Revenue Administration, vide letter dated 04.04.2012. However, his request was rejected, by letter dated 21.04.2014, since the petitioner and his sister have not attended the enquiry conducted by the department officials at Kovilpatty and hence, the genuineness of his date of birth could not be ascertained. It is also stated in the counter affidavit that the petitioner was relieved from service on superannuation on 31.05.2011 and therefore, his request to extend his service continuously as per the latest amended regulation is not feasible.

5. In the light of the aforesaid averments made in the counter affidavit filed by the respondents, more particularly that the petitioner already approached this Court for the very same relief, this Court is not inclined to grant any relief to the petitioner.

6. Therefore, this writ petition is liable to be dismissed and is accordingly, dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

msv

To

1. The Secretary to the
Government of Tamil Nadu,
Department of Medical Services,
Chennai - 09.
2. The Director of Public Health &
Preventive Medicine,
DMS Complex, Teynampet,
Chennai.
3. The Dean, Chingleput Medical College,
Chingelpet.

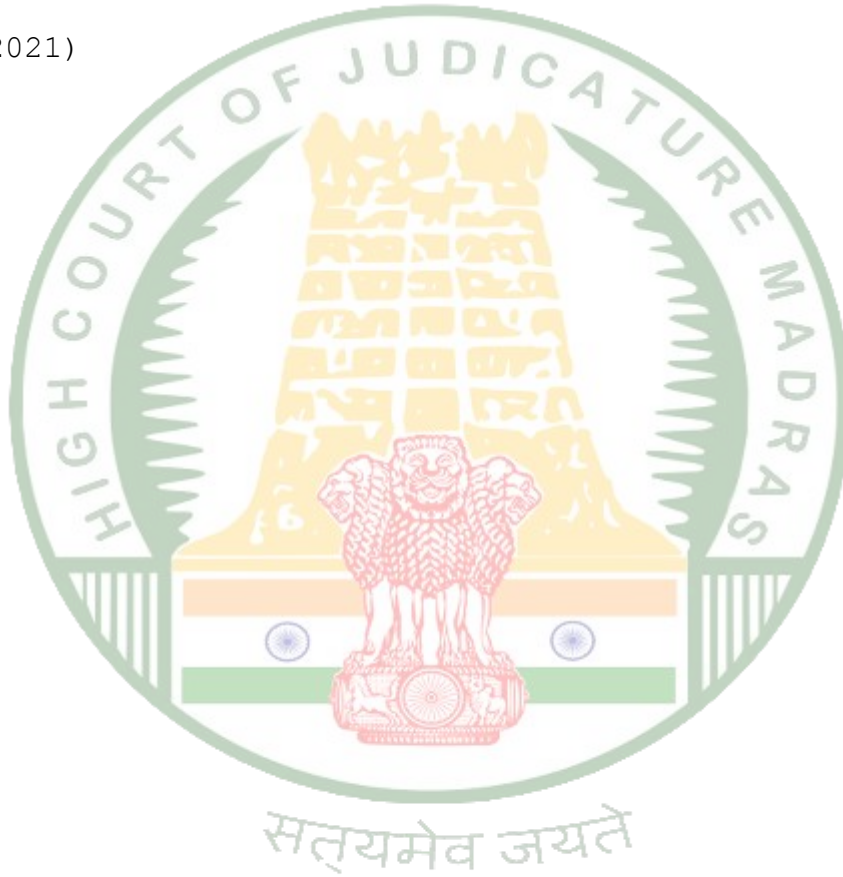
4.The Director of Medical Education,
Poonamali High Road, Kilpauk,
Chennai - 10.

5.The Secretary,
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Chennai.

+1cc to the Government Pleader, S.R.No. 5196

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PP (CO)
GN(08/07/2021)



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