



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.21836 of 2021

(Through Video Conferencing)

S.Bhaskar ... Petitioner

Vs

1.The Secretary to Government,
School Education Department,
Fort St. George, Chennai - 9.

2.The Commissioner of School Education,
College Road, Chennai - 6.

3.The Joint Director of School Education (personal),
College Road, Chennai - 6.

4.The Chief Education Officer,
Kancheepuram.

5.The Additional Chief Educational Officer,
Combined School Education,
Kancheepuram.

6.The Thasildar,
Cheyyar, Thiruvannamalai District. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to correct the date of birth as 16.11.1965 instead of 05.03.1964 in the service record of the petitioner and allow the petitioner to continue in service based on his actual date of birth i.e., 16.11.1965.

For Petitioner : Mr.K.H.Ravikumar

For Respondents : Mr.L.S.M.Hasan Fizal
Government Advocate

ORDER

Mr.L.S.M.Hasan Fizal, learned Government Advocate takes
<https://hcservices.ecourts.gov.in/hcservices/>
notice on behalf of the respondents.



2. At the time of entry into service, the petitioner had filed a copy of the Secondary School Leaving Certificate (SSLC), wherein, his Date of Birth has been given as 05.03.1964. According to the petitioner, the actual date of birth is 16.11.1965. It is submitted that the petitioner has made representations for altering date of birth in the service register of the petitioner as early as 02.02.2009 within five years from the date of his appointment.

3. It is the case of the petitioner that the papers have been forwarded to the sixth respondent for altering the date of birth so as to give an effect to the correction of his date of birth in the service register of the petitioner as 16.11.1965.

4. The learned counsel for the petitioner has placed reliance under Section 59 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, which is reproduced below:-

"59. Alteration of Date of Birth

(1) 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. or Matriculation Register or school records, he shall make an application to the Commission in cases 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 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 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.

(2) 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 procedure laid down in sub-section (1).

(3) 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 certificates, shall be summarily rejected.

(4) In considering the question of permitting an alteration of the date of birth as entered in the official records even when such entry is proved to have been due to a bona fide mistake, the Government or the appointing authority shall take into consideration the circumstance whether the applicant would normally be eligible for appointment to the post at the time of entry into service had his age been correctly stated and what would have been its effect on his service and the service conditions of other officers in the service and may permit the alteration, subject to such condition as they or it may deem fit to impose:

Provided that the Commission shall be consulted in the case of an applicant who has been initially recruited through the Commission, if it is proposed to accept his request for alteration of date of birth.

(5) The procedure laid down in sub-section (1) shall be followed in all cases where alteration of date of birth is proposed suo motu by the Head of Office on the basis of medical opinion, in the absence of any other authoritative records.

Explanation.—For the purpose of this sub-section, "authoritative records" are the Secondary School Leaving Certificate or University, college, or school records or Discharge Certificate of Army.

(6) The decision of the Commission, the appointing authority or the Government, as the case may be, shall be final."

5. It is not clear that on what basis the Tahsildar can alter the date of birth issued by educational authorities namely the Board of Secondary Education, Tamil Nadu. Be that as it may, the representation of the petitioner has been forwarded by the fourth respondent to sixth respondent.

6. The sixth respondent may therefore consider the representation of the petitioner and pass appropriate orders after examining the date of birth in the Secondary School Leaving Certificate and after conducting enquiry. This exercise may be carried out by the respondents within a period of six weeks from the date of receipt of a copy of this order in accordance with law.



7. This Writ Petition stands disposed of with the above observations. No costs.

WEB COPY

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

arb

To

- 1.The Secretary to Government,
School Education Department,
Fort St. George, Chennai - 9.
- 2.The Commissioner of School Education,
College Road, Chennai - 6.
- 3.The Joint Director of School Education (personal),
College Road, Chennai - 6.
- 4.The Chief Education Officer,
Kancheepuram.
- 5.The Additional Chief Educational Officer,
Combined School Education,
Kancheepuram.
- 6.The Thasildar,
Cheyyar, Thiruvannamalai District.

+1cc to Mr.KHK Ravi Kumar, Advocate SR.No.53006

+1cc to Government Pleader SR.No.53522

W.P.No.21836 of 2021

AD(CO)
GMY(15/11/2021)