



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A.[MD]No.1304 of 2021

and

C.M.P(MD)No.5455 of 2021

1.The Secretary to Government,
State of Tamil Nadu,
Higher Education Department,
Secretariat, Fort St. George,
Chennai-9.

2.The Director of Collegiate Education,
Office of the Director of Collegiate Education,
9th Floor, EVK Sampath Buildings,
College Road,
Chennai-600 006.

3.The Principal,
Government Arts and Science College,
Veerapandi-625 534,
Theni District.

: Appellants 1 to 3 /
Respondents 1 to 3

Vs.

1.Dr.C.Arul Theresa,
Assistant Professor,
Government Arts and Science College,
Veerapandi,
Theni District.

: 1st Respondent /
Petitioner

2.The Director of School Education,
DPI Compound, College Road,
Egmore, Chennai-600 006.

: 2nd Respondent /
4th Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order passed in W.P(MD)No.13078 of 2019, dated 20.01.2020 on the file of this Hon'ble Court and allow this Writ Appeal.

Prayer in WP(MD). 13078/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus, calling for the records of the 3rd respondent herein in his proceedings in Na.Ka.No.21/A/2019, dated 31.05.2019 and quash



the same and consequentially direct the respondents herein to permit the petitioner to work as per amended date of birth i.e., 24.01.1962 as per S.S.L.C. Certificate.

For Appellants : Mr.A.K.Manickam
Standing Counsel for Government
For R1 : Mr.K.Hema Karthikeyan

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

We have heard Mr.A.K.Manickam, learned Standing Counsel for Government appearing for the appellants and Mr.K.Hema Karthikeyan, learned counsel appearing for the first respondent.

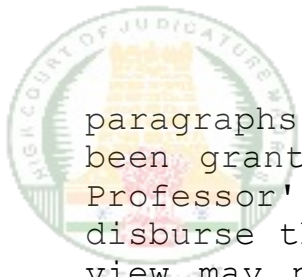
2.This Writ Appeal by the State is directed against the order dated 20.01.2020, in W.P(MD)No.13078 of 2019.

3.The Writ Petition was filed by the respondent challenging the order passed by the third appellant dated 31.05.2019 and for a consequential direction to permit the respondent to work as per the amended date of birth ie., 24.01.1962.

4.At the first blush, it appears that the respondent / writ petitioner is guilty of delay and laches in alteration of her date of birth, but on a closer scrutiny of the factors, we find the case to be otherwise. The respondent joined service on 28.02.2011 and within five years ie., on 02.12.2015, she submitted an application for alteration of her date of birth, based on her birth certificate. The application was returned in January 2016 for submission in the appropriate form which has been complied with by the respondent / writ petitioner on 02.07.2016. Once again it was returned on 19.07.2017, stating that mark statement has to be enclosed. When the records were submitted on 04.10.2017, it was returned stating that the mark statement has to be amended. Thereafter, it was resubmitted and once again returned stating that it has to be routed through the District Educational Officer. Subsequently, it was returned on 29.10.2018, stating that the first appellant has to take a decision in the matter.

5.The respondent having been driven from pillar to post, left with no option approached this Court by filing a writ petition which was disposed of by giving a direction. It is only thereafter, the authorities have acted. By then, she attained the age of superannuation on 31.01.2019. Since the respondent was holding a teaching post, she was allowed to continue till May. If the amended date of birth is accepted, then she has to be allowed to continue in service till 31.01.2020.

6.Thus, we are of the view that the learned Writ Court was right in allowing the writ petition. However, in the penultimate



paragraphs of the order namely paragraph Nos.8 & 9, relief has been granted to the petitioner to continue to act as 'Assistant Professor' till 31.05.2020 and directed the respondents to disburse the unpaid salary from 31.05.2019. This in our considered view may not be right because the appellant has been allowed to continue till the end of the academic year. That apart, after 31.05.2019, the respondent has not worked. Therefore, she will not be entitled for salary. However, while computing the length of service, it shall be computed till 31.05.2020. To that extent, we are modifying the order.

7. Accordingly, the Writ Appeal is partly allowed and the order and direction issued by the learned Writ Court allowing the writ petition and accepting the amended date of birth is confirmed and the respondent / writ petitioner will be entitled for all monetary benefits up to 31.05.2020 and all other service benefits. It is made clear that the length of service shall be computed by reckoning the date of service as 31.05.2020 and accordingly, pay pension and other benefits be fixed. This direction be complied with within a period of twelve [12] weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

MR

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

The Director of School Education,
DPI Compound, College Road,
Egmore, Chennai-600 006.

+1cc to SPL. GP Sr.No.21738 dt : 08.07.2021

W.A. [MD]No.1304 of 2021
07.07.2021

ES (CO)

SB(03.01.2022) 3P 3C

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