



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2021

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THE HON'BLE DR.JUSTICE ANITA SUMANTH

W.P. (MD) No. 13034 of 2018

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M. Charles,
Deputy Legal Advisor (Rtd),
15- 255F, S.S. Nagar,
Parvathipuram, Nagercoil - 629 003,
kanniyakumari District.

.. Petitioner

Vs.

1. The Government of Tamil Nadu represented by its
Chief Secretary to Government,
Department of Home (Courts -VI),
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Commissioner,
Revenue Administrative Commission,
Government of Tamil Nadu,
Chepauk, Chennai.
3. The Accountant General (A&E),
Anna Salai, Teynampet,
Chennai.
4. The Director of Prosecution,
Government of Tamil Nadu,
Chennai.
5. The Director,
Vigilance and Anti Corruption,
Government of Tamil Nadu,
Chennai - 600 016.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of mandamus directing the respondents 1 to 5 to correct the date of birth of the petitioner in his service records as 13.01.1960 instead of 20.05.1959 as per his representation dated 27.11.2017 and consequently direct the respondents to extend the corresponding service, terminal, pension and other benefits to the petitioner including salary and pension arrears and all attendant and consequential monetary and service benefits and pass orders.



For Petitioner
For Respondents

: Mr. N. Dilip Kumar
: Mr. V. OM. Prakash,
Additional Government Pleader

ORDER

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The petitioner is a post graduate in law and was selected for the post of Assistant Public Prosecutor Grade II (APP). He was posted as Assistant Public Prosecutor in the Judicial Magistrate Court - I Mayiladuthurai with effect from 28.11.2002.

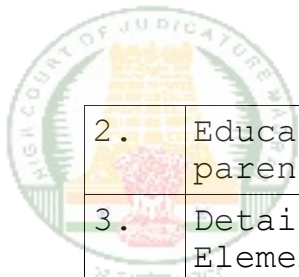
2. He would state that at the time of joining Government Service, his date of birth was erroneously given as 20.05.1959 as per the entry in his high school certificate. However, his correct date of birth was 13.01.1960, as evidenced by his birth certificate. He thus sought amendment of his date of birth in the service records. A representation was filed by him to the aforesaid effect on 05.11.2007 before R2, being the Revenue Administrative Commissioner.

3. After the receipt of his representation, R2, the Commissioner, Revenue Administrative Commission, had forwarded the representation to R1, being the Chief Secretary to Government, who had thereafter called for the following documents for processing the same:

1.	Particulars in the prescribed Proforma
2.	Birth Certificate/Education Certificate of the persons who were born with the petitioner
3.	Particulars of Parents
4.	Copy of first page of Service Register
5.	Specific reasons should be mentioned for wrongly entered/registered the Date of Birth in the school certificate.
6.	Certificate of the petitioner who were studied in 1 st standard to 5 th standard (Certified by Head Master)
7.	Certificates of the petitioner who were studied in 5 th standard to 11 th standard in year wise (certified by Head Master)
8.	Original petition of the petitioner.

4. The second respondent was thereafter directed to make a discreet enquiry upon the request of the petitioner for change of date of birth. Additional documents were sought for by R2 as follows:

1.	Certified copy of the Birth Certificate of the persons who were born with the petitioner
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2.	Educational qualification and occupation details of his parents
3.	Details of joining in first standard and completion of Elementary education by the petitioner (Certified by Head Master)
4.	Evidence obtained from the competent authority that no children has born to the petitioner's parents as on the date of birth of the petitioner as per school certificate
5.	Specific reason should be mentioned for wrongly entered/registered the date of birth in the school certificate.
6.	Copy of appointment order of the petitioner
7.	Orders if any received from the subordinate court regarding the register of date of birth and if so the details may be furnished.

5. While this is so and enquiry was on-going, the petitioner superannuated on 31.05.2007 and thus since the required documents were not received by the respondents. The matter does not appear to have been processed any further.

6. Moreover, a request has been made by the Director of Vigilance and Anti Corruption for extension of service of the petitioner by one year, which request was also rejected on 31.05.2017. Post superannuation, the petitioner has filed a representation seeking the same relief as sought for in the present writ petition.

7. The date of birth of a candidate will be one to be ascertained after detailed verification of various facts that would be relevant and germane to the matter. Thus, it would not be proper by this court to issue a positive mandamus as sought for. At the highest, a direction could be issued to the respondents to consider the representation of the petitioner, in light of the evidences that have been, and may further be called for from the petitioner, to substantiate the request made.

8. The argument of learned counsel for R2 that the representation of the petitioner having been filed post-superannuation is liable to be rejected, for the reason that the petitioner has been seeking the same relief from 05.11.2007 onwards and the request contained in representation dated 27.11.2017 is neither new nor an afterthought.

9. In light of the discussion as above, representation dated 27.11.2017, shall be disposed by R1, in consultation with the other respondents as may be relevant and a speaking order passed after



hearing the petitioner. The aforesaid exercise will be completed within a period of 12 weeks from today. Disposed as above. No costs.

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// True Copy //

Sd/-

Assistant Registrar (CO)

/ /2021

Sub Assistant Registrar (CS)

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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

1. The Government of Tamil Nadu represented by its
Chief Secretary to Government,
Department of Home (Courts -VI),
Secretariat, Fort St. George, Chennai - 600 009.
 2. The Commissioner,
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 4. The Director of Prosecution,
Government of Tamil Nadu, Chennai.
 5. The Director,
Vigilance and Anti Corruption,
Government of Tamil Nadu,
Chennai - 600 016.
- +1 CC to M/s.N. DILIP KUMAR, Advocate (SR-35363[F] dated 22/11/2021)
+1 CC to M/s.SPL GP (SR-35304[F] dated 22/11/2021)

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