



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD) No.4287 of 2016

and

W.M.P. (MD) Nos.12527 and 13007 of 2016

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K.Vetriselvi

... Petitioner

vs.

1.The Director,
Director of Rural Development and Panchayat Raj,
Chennai.

2.The District Collector,
Thanjavur District, Thanjavur.

3.The District Collector,
Namakkal District, Namakkal.

4.The Block Development Officer,
Block Development Office,
Erumapatty, Namakkal District.

5.The Block Development Officer,
Block Development Office,
Papanasam Taluk, Thanjavur District.

... Respondents

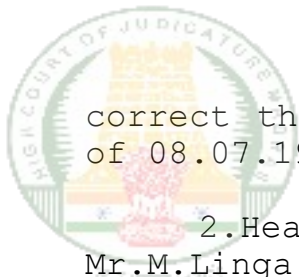
PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the fourth respondent in Na.Ka.No.767/2014/A3, dated 26.12.2014 and quash the same as illegal, arbitrary and unenforceable, and consequently, to direct the respondents to correct the date of birth of the petitioner, as 08.07.1974 instead of 08.07.1964 in her service register and in the connected records.

For Petitioner : Mr.A.Balaji

For Respondents : Mr.M.Linga Durai
Government Advocate

ORDER

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the fourth respondent, dated 26.12.2014 and to direct the respondents to



correct the date of birth of the petitioner, as 08.07.1974 instead of 08.07.1964 in her service register and in the connected records.

2. Heard Mr.A.Balaji, learned Counsel for the petitioner and Mr.M.Linga Durai, learned Government Advocate for the respondents.

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3. The facts in this case are not in dispute. The father and mother of the petitioner are one Mr.Krishnan and Tmt.Manimegalai. The marriage between her father and mother took place on 11.09.1970. The petitioner is the third daughter of her parents. The petitioner's date of birth, as shown in all the records including SSLC certificate, is 08.07.1974.

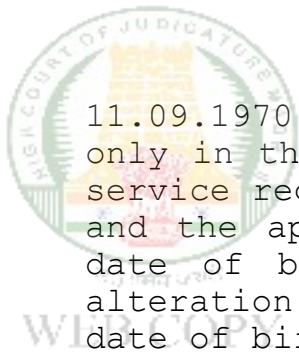
4. The petitioner was appointed as Technical Assistant under "National Rural Employment Guarantee Scheme" in Papanasam Taluk, Thanjavur Taluk, by proceedings, dated 26.11.2007 and she was paid consolidated salary of Rs.5,000/- per month. Later, the petitioner was promoted as Overseer and appointed in Erumapatti Block in Namakkal District. The appointment order issued by the District Collector, Namakkal District, dated 09.06.2008 would also refer to the petitioner's date of birth as 08.07.1974.

5. It is the case of the petitioner that she was subsequently transferred to Papanasam Taluk, Thanjavur District and at that time, her date of birth was wrongly entered as 08.07.1964. Finding that the petitioner will lose substantial service because of the wrong entry of her date of birth in her service register, the petitioner made a representation for altering the date of birth in tune with the original records produced by her. The petitioner's representation was rejected by the fourth respondent, by impugned order, dated 26.12.2014, on the short ground that the request to change the date of birth in the service register beyond the period of five years from the date of appointment cannot be considered. Aggrieved by the same, the present Writ Petition has been filed.

6. The second respondent as well as the fourth respondent have filed counter. In the counter affidavit, it is admitted that the alteration of date of birth after the petitioner was transferred to the new place was by mistake. The learned Government Advocate submitted that the date of birth as entered originally reflected the correct date of birth and the petitioner's wrong entry was made due to mistake committed by the respondents inadvertently.

7. Sufficient documents have been produced by the learned Counsel for the petitioner to show that the date of birth found in the service register of the petitioner is wrong and that the wrong entry may be due to inadvertence or by mistake. The marriage of the petitioner's parents was solemnized only on 11.09.1970. This is supported by the judgment of Subordinate Court, Thanjavur, in H.M.O.P.No.81 of 1994. It is stated before the Subordinate Court

<https://hcmca.ecm.gov.in/asp/services/>



11.09.1970 and hence it can be inferred that the petitioner was born only in the year 1974. The date of birth of the petitioner in the service register was altered without the knowledge of the petitioner and the application submitted by the petitioner for alteration of date of birth cannot be treated as an original application for alteration of date of birth, but as a petition for correction of date of birth based on the original records.

8. When there is a clerical mistake in entering the date of birth pursuant to the transfer, which was made after the appointment of the petitioner, the application for alteration of date of birth cannot be treated as the original application for altering the date of birth. It is admitted before this Court that the appointment order, dated 09.06.2008 specifically refers to the date of birth of the petitioner, as 08.07.1974. Hence, the entry in service register of the petitioner must be a wrong entry. In the said circumstances, Rule 10 of Fundamental Rules is not applicable to the case of the petitioner, as the petitioner was not the author of the wrong entry. It is to be noted that the respondents are under legal obligation to correct the mistake after admitting in the appointment order itself that the date of birth of the petitioner is 08.07.1974. In such circumstances, this Court is unable to sustain the impugned order.

9. Hence, this Writ Petition is allowed and the impugned order passed by the fourth respondent, dated 26.12.2014 is quashed. The respondents are directed to correct the date of birth of the petitioner, as 08.07.1974, instead of 08.07.1964 in petitioner's service register and in the connected records within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar(CS)

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To

1. The Director,

Director of Rural Development and Panchayat Raj,
Chennai.

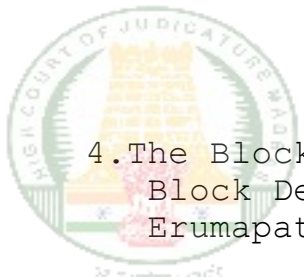
2. The District Collector,

Thanjavur District, Thanjavur.

3. The District Collector,

Namakkal District, Namakkal.

<https://hcservices.namakkal.gov.in/hcservices>



4.The Block Development Officer,
Block Development Office,
Erumapatty, Namakkal District.

5.The Block Development Officer,
Block Development Office,
Papanasam Taluk, Thanjavur District.

+1 CC to M/s.GP (SR-27053[F] dated 24/08/2021)

W.P.(MD) No.4287 of 2016
23.08.2021

MGJ(02.09.2021) 4P 7C