IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.15766 of 2012
and
M.P.No.1 of 2012

V.Dhakshinamoorthy ... Petitioner

Vs.

1. The Government of Tamil Nadu,
   Rep. by the Secretary to Government,
   Revenue Department, Fort St.George,
   Chennai - 600009.

2. The Principal Secretary/Commissioner
   of Revenue Administration,
   Chepauk, Chennai - 600005.

3. The Revenue Divisional Officer (in-charge)
   cum Special Deputy Collector,
   (Land Acquisition), Maduranthakam,
   Kancheepuram District. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the third respondent in Pa.Mu.83/2012/Aa dated 31.01.2012 and quash the same and direct the respondents to correct the petitioner's date of birth as 12.08.1955 in the petitioner's service register and permit him to continue in service till the afternoon of 31.08.2013 with all consequential benefits.

For Petitioner : Mr.P.Rajendran

For Respondents : Mr.P.Ganesan [R1 to R3]
Government Advocate

ORDER

The petitioner herein was appointed as a Village Administrative Officer on 13.01.2009. At the time of appointment, he had produced his birth certificate which evidences his birth date as 12.08.1955. However, his SSLC Certificate evidences his date of birth as 10.01.1954. It is the case of the petitioner that the respondents herein had unilaterally altered his date of birth in the service register as 10.01.1954 instead of 12.08.1955. Thereafter, when the petitioner herein had given his representation, together with a copy of his birth certificate and claimed that his actual date of birth was 12.08.1955, the third respondent herein had rejected his claim without reference to the birth certificate produced by the petitioner herein. Aggrieved against the same, the present writ petition has been filed.

2. The birth certificate on which the petitioner relies upon, was issued by the concerned Registrar of Births and Deaths, Cheyur, holding that the petitioner's date of birth was 12.08.1955. The consequential issue that arises is as to whether the date of birth in the school records would prevail over the certificates issued by the concerned Government Authority for Births and Deaths.

3. In the case of 'CIDCO Vs. Vasudha Gorakhnath Mandevlekar' reported in '(2009) 7 SCC 283', the Honourable Supreme Court had held that the entry of birth register would prevail over the entry in the school register, in the following manner:-

> .....
>
> "18. The deaths and births register maintained by the statutory authorities raises a presumption of correctness. Such entries made in the statutory registers are admissible in evidence in terms of Section 35 of the Evidence Act. It would prevail over an entry made in the school register, particularly, in absence of any proof that same was recorded at the instance of the guardian of the respondent. (See Birad Mal Singhvi v. Anand Purohit.)"

4. It is the case of the petitioner that though he had produced the birth certificate issued by the statutory authorities to the respondents at the time of enquiry, the same was not considered. A perusal of the enquiry report substantiates this stand taken by the petitioner. As such, the action on the part of the respondents in altering the date of birth in the service register based on the SSLC Certificate and consequently, retiring him prematurely, is illegal. In other words, the petitioner, who ought to have been retired on 31.08.2013, was prematurely made to retire on 31.01.2012.

5. This court is of the view that this period of premature retirement would be taken as a service period for all purposes.

However, since the petitioner had not actually worked during this period, he would not be entitled for any monetary benefits for this period except for the pensionary benefits.

6. In the light of the above observations, this Writ Petition stands allowed and the impugned order dated 31.01.2012, is quashed. Consequently, there shall be a direction to the first respondent herein to pass appropriate orders by holding that the petitioner is deemed to have been in service till 31.08.2013 and count the period between 31.01.2012 to 31.08.2013, as service period for all purposes and accordingly, grant the pensionary benefits for this period. Such an exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

Sni

To

1. The Secretary to Government of Tamil Nadu,
   Revenue Department, Fort St.George,
   Chennai - 600009.

2. The Principal Secretary/Commissioner
   of Revenue Administration,
   Chepauk, Chennai - 600005.

3. The Revenue Divisional Officer (in-charge)
   cum Special Deputy Collector,
   (Land Acquisition), Maduranthakam,
   Kancheepuram District.

+1cc to Mr.Rajendran, Advocate, S.R.No.16614

+1cc to the Government Pleader, S.R.No.16703

W.P.No.15766 of 2012

MG(CO)
SU(05/04/2022)