



W.P.No.14730 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14730 of 2019
and W.M.P.No.14717 of 2019
& W.M.P.No.5429 of 2020

C.Kumar

...Petitioner

Vs.

The Divisional Engineer,
Highways and Rural Works Department
(Construction and Maintenance)
Chengalpattu,
Kancheepuram District.

..Respondent

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondent to consider the claim of the petitioner for rectifying the incorrect and unauthorized entry with regard to the date of birth of the petitioner and the date of his superannuation in the seniority lists of the year 2018 and 2019 to make correct entries ie. date of birth as 13.05.1965 and date of superannuation as 31.05.2023 AN and allow the petitioner to continue in service beyond 31.05.2019 AN.



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For Petitioner : Mr.S.Muthukumar
for Mr.G.Punniyakodi

For Respondent : Mr.B.Vijay
Additional Government Pleader

ORDER

The relief sought for in the present writ petition is to consider the claim of the petitioner for rectifying the incorrect and unauthorized entry with regard to the date of birth of the petitioner and the date of his superannuation in the seniority lists of the year 2018 and 2019 to make correct entries i.e., date of birth as 13.05.1965 and date of superannuation as 31.05.2023 AN and allow the petitioner to continue in service beyond 31.05.2019 AN.

2.The petitioner joined as a Gang Mazdoor (Salai Paniyalar) in Highways and Rural Works Department in Chengalpattu Division on 01.02.2013 on daily wage basis. On completion of three years of service and pursuant to the directions of the High Court issued in W.P.No.36623 of 2005, dated 09.12.2005, the services of the writ petitioner was regularized in the post



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of Gang Mazdoor on 31.12.2015. Accordingly, the petitioner was brought under the regular establishment in the time scale of pay.

3.The grievance of the writ petitioner is that his date of birth was entered as 13.05.1965 in his Service Record at the time of regularization of his services. However, the said date of birth was altered by the respondent authorities without any intimation to him as 13.05.1961. When the authorities have initiated steps to retire the petitioner on 31.05.2019, the petitioner has chosen to file the present writ petition to follow the date of birth entered in his Service Record as 13.05.1965. Initially, an interim injunction was granted by this Court on 13.05.2019. Accordingly, the petitioner was allowed to continue in service. The respondent filed vacate injunction petition and this Court passed an order on 30.05.2020 as follows:

Heard both sides.

2. The very Date of Birth of the petitioner is disputed by the learned Additional Government Pleader appearing for the respondent.



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3.The main contention of the learned counsel for the petitioner is that the petitioner has studied in Balar Nesan, Middle School, Uthiramerur, which is disputed by the learned Additional Government Pleader appearing for the respondent.

4 In view of the above, the District Educational Officer, the District Educational Officer, Kanchipuram is directed to conduct enquiry as to the validity of the Record Sheet issued by Balar Nesan Middle School, Uthiramerur District and file a report before this Court on or before 05.01.2022.

5.This order has been passed pursuant to the Records produced by one Mr.E.Gnanaprakasm, Superintendent, Additional Divisional Engineer, Construction and Maintenance Department, Uthiramerur.

6.Post the matter on 05.01.2022.

4.Pursuant to the interim directions issued by this Court to conduct an enquiry as to the validity of the Record Sheet issued by Balar Nesan Middle School, Uthiramerur, the authorities have conducted an enquiry and found that the said Certificate produced by the writ petitioner was bogus. The petitioner



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had not studied in the said School viz., Balar Nesan Middle School at Uthiramerur. Thus, the authorities arrived a conclusion that the petitioner submitted a fake certificate and entered his date of birth as 13.05.1965 in his Service Record. Considering the Enquiry Report, this Court passed further orders on 05.01.2022, vacating the interim order granted on 30.05.2019 in W.M.P.No.14717 of 2019. The matter was further listed for hearing on 24.01.2022.

5.The learned Additional Government Pleader appearing on behalf of the respondent reiterated by stating that the wrong date of birth was entered in the Service Record based on the certificate produced by the petitioner which is found to be bogus on enquiry. The correct date of birth of the writ petitioner is 13.05.1961. Even as per the NMR list which was maintained even prior to the regularization of the services of the writ petitioner, the date of birth of the petitioner was clearly stated as 13.05.1961. Therefore, the authorities arrived a conclusion that the petitioner at the time of regularization submitted a false and bogus educational School Certificate and entered his date of birth as 13.05.1965. Thus, the authorities have corrected the same as 13.05.1961 in his



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Service Record and initiated action to allow the petitioner to retire from service on 31.05.2019.

6.The authorities while correcting the date of birth ought to have provided an opportunity to the petitioner. However, such an opportunity was not granted. Thus, the petitioner moved the present writ petition and this Court also granted an interim order. But subsequently, this Court directed the authorities to conduct an enquiry and accordingly, an enquiry was conducted by verifying the Certificate produced by the writ petitioner regarding his date of birth. The enquiry report reveals that the petitioner has not studied in Balar Nesan Middle School at Uthiramerur and he submitted a bogus certificate and entered his date of birth as 13.05.1965. Thus, the fact was ascertained pursuant to the enquiry, ordered by this Court, the authorities have initiated all further actions.

7.It is brought to the notice of this Court that the petitioner was allowed to continue in service pursuant to the interim order granted by this Court. However, he has no right to continue beyond 31.05.2019 in service. The salary



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has not been paid to the petitioner so far, in view of the pendency of the writ petition. This being the facts and circumstances, the date of birth of the writ petitioner is to be taken as 13.05.1961 for all purposes and accordingly, he should be allowed to retire from service on 31.05.2019. Accordingly, the respondent is directed to allow the writ petitioner to retire from service on 31.05.2019 and consequently, settle all his terminal and pensionary benefits due to him as expeditiously as possible. It is made clear that the petitioner is to be granted Contributory Pension under the New Pension Scheme w.e.f. 01.06.2019.

8.Accordingly, this writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

14.10.2022

Index : Yes
Internet : Yes
Speaking order : Yes
ssr

S.M.SUBRAMANIAM, J.



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SSI

To

The Divisional Engineer,
Highways and Rural Works Department
(Construction and Maintenance)
Chengalpattu,
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