



W.P.No.29942 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:14.12.2022

Coram:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.29942 of 2018

M.Ramanikandan

.. Petitioner

/versus/

1.The Commissioner,
Hindu Religious & Charitable Endowments,
Uthamar Gandhi Saalai,
Chennai 600 034.

2.Thamizh Naadu Public Service Commission,
Rep.by its Secretary
No.1, Greams Road,
Chennai 600 006.

3.The City Health Officer,
Trichirappalli City Corporation,
Trichirappalli.

4.The Commissioner,
Revenue Administration,
Ezhilagam, Chepauk,
Chennai 600 005.

5.The Joint Commissioner,
Hindu Religious & Charitable Endowments,
Uthamar Gandhi Saalai,
Chennai 600 034.



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6.The Joint Commissioner,
Hindu Religious & Charitable Endowments,
Salem.

7.The Joint Commissioner,
Hindu Religious & Charitable Endowments,
Coimbatore.

8.The Joint Commissioner/Executive Officer,
Arulmighu Mariamman Temple, Samayapuram,
Trichy District.

9.The Deputy Commissioner/Executive Officer,
Arulmighu Bannari Mariamman Temple,
Bannari.

10.The Assistant Commissioner,
Hindu Religious & Charitable Endowments,
Erode.

11.The Assistant Commissioner,
Hindu Religious & Charitable Endowments,
Salem.

12.Regional Audit Officer,
Hindu Religious & Charitable Endowments,
Erode.

.. Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India praying to call for the records of the Commissioner, Hindu Religious & Charitable Endowments, the first respondent herein vide his Proceedings Che.Mu.Na.Ka.No.596/2015/L1 dated 22.06.2017



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and quash the same by issuing a Writ of Certiorarified Manadamus or any other Writ or Order or Direction in the name of Writ and direct the first respondent to alter the date of birth of this petitioner from 14.04.1971 to 31.03.1972 and enter the same in the petitioner's service records.

For Petitioner :Dr.A.E.Challiah
Senior Counsel for
M/s C.Saifullah

For Respondents :Mr.K.Karthikeyan,
G.A.(HR &CE) for R1 and R5 to R12
Mr.R.Bharanidharan for R2
Mr.T.Chezhiyan, AGP for R3 and A4

ORDER

Through the proceedings of the Commissioner of Hindu Religious and Charitable Endowments, dated 29.04.2013, the petitioner was directly recruited to the post of Executive Officer, Grade-I for the year 2009-2010 and 2010-2011 from the list of candidates selected by the Tamil Nadu Public Service Commission (in short "TNPSC") for Subordinate Service of Hindu Religious and Charitable Endowments.



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2. According to him, the correct date of birth is 31.03.1972.

Whereas the service records of the respondents carries his date of birth as 14.04.1971. When he sought for alteration of his date of birth in accordance with Section 59 of the Tamil Nadu Government Servant (Conditions of Service) Act, 2016, his claim was rejected on the ground that he had joined in the service of Hindu Religious and Charitable Endowments Department as an Executive Officer, Grade-III on 16.10.2000 and thereafter, he was promoted to the post of the Executive Officer, Grade-II and since he has been in continuous service for more than 14 years 6 months and 8 days, his request was rejected on 22.06.2017, which is the impugned order. Challenging the same, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner submitted that the appointment to the post of Executive Officer, Grade-I is to be treated as afresh and he was directly recruited to the post of the Executive Officer, Grade-I and his application seeking for alteration of



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the date of birth is made on 24.04.2015, which is within the five years period prescribed under the Act.

4. Per contra, the learned Government Advocate (HR & CE) appearing for the respondents 1 and 5 to 12 placed reliance on the averments in the counter affidavit and submitted that the petitioner had originally joined in the service of Hindu Religious and Charitable Endowments Department as an Executive Officer, Grade-III in the year 2000 and thereafter, promoted to the post of the Executive Officer, Grade-II and while holding this post, he applied to the post of Executive Officer, Grade-I through direct recruitment by Tamil Nadu Public Service Commission. Since Section 59 (2) of the Tamil Nadu Government Servant (Conditions of Service) Act, 2016 prescribes a limitation of five years to seek for alteration of the date of birth of an employee and the petitioner herein having been originally recruited in the year 2000 has made an application only in the year 2015, his request cannot be considered, after expiry of the period of five years and therefore, there is no infirmity in the impugned order.



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5. The claim of the respondents that the petitioner has been in continuous service in the Hindu Religious and Charitable Endowments Department from the year 2000 seems to be flawed. Admittedly, the petitioner was recruited through direct recruitment conducted by the Tamil Nadu Public Service Commission for the post of the Executive Officer, Grade-I. Even in the counter affidavit filed by the respondents this fact has been admitted. In fact, the counter affidavit goes to the extent of saying that while the petitioner was serving as Executive Officer, Grade-II, he had applied for the post of Executive Officer, Grade-I through direct recruitment by the Tamil Nadu Public Service Commission and had cleared the written examination conducted. He had thereafter applied for 'No Objection Certification' to attend the interview, which was also given to him. In this background, he was selected and appointed as an Executive Officer, Grade-I in the year 2013. The petitioner was also relieved from the post of Executive Officer, Grade-II. After being relieved, he had undergone training for the post of the Executive Officer, Grade-I from 29.04.2013 and on completion of



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training, he was posted as an Executive Office, Grade-I for Arulmighu Badrakaliamman Temple at Salem District through its order dated 29.07.2013. The Counter affidavit as well as the proceedings ratify this factual position that the petitioner's entry to the post of Executive Officer, Grade-I, was only through direct recruitment and hence, his service requires to be countenanced only from the date of appointment i.e. from 29.07.2013.

6. If that be so, by applying Section 59(2) of the Tamil Nadu Government Servant (Conditions of Service) Act, 2016, his application dated 24.04.2015 seeking for alteration of his date of birth is well within the time. Thus, the impugned order rejecting the petitioner's request for alteration of his date of birth on the ground that the application is belatedly filed after expiry of 5 years under Section 59 (2) of the Tamil Nadu Government Servant (Conditions of Service) Act, 2016, cannot be sustained. Accordingly, the impugned order on the file of the first respondent is quashed. Consequently, the petitioner is granted liberty to make an appropriate application to the second respondent/Tamil Nadu



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Public Service Commission in accordance with Section 59(1) of the Act seeking for alteration of date of birth together, with supporting testimonials to substantiate his claim. On receipt of such representation, the second respondent herein shall abide by the procedure contemplated under Section 59 (1) of the Tamil Nadu Government Servant (Conditions of Service) Act, 2016 and in the light of the findings and observations made in this order, pass appropriate orders preferably within a period of 3 months from the date of receipt of a copy of this order. Accordingly, this Writ Petition stands allowed. No costs.

14.12.2022

Index:yes
Speaking order
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To
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M.S.RAMESH, J.

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