



W.P(MD)No.7060 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7060 of 2020

M.Kaliyammal

... Petitioner

Vs.

1.The District Collector,
Karur District, Karur.

2.The Personal Assistant to the Collector,
District Collectorate, Karur District,
Karur.

3.The Commissioner / Block Development Officer,
Kadavoor Panchayat Union at
Tharagampatti, Karur District.

4.The Child Development Project Officer,
Child Development Project Office,
Kadavoor at Tharagampatti.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to rectify the date of birth in the petitioner's service register as 10.06.1966 and confer all consequential service and monetary benefits to the petitioner.



WEB COPY



W.P(MD)No.7060 of 2020

For Petitioner : Mr.J.Parekhkumar

For R1, R2 & R4 : Mr.J.K.Jeyaseelan
Government Advocate

For R3 : Mr.R.Ragaventhiran
Government Advocate

ORDER

Heard the learned counsel on either side.

2. The petitioner's husband died in a road accident on 20.03.1989. He applied to the then District Collector, Karur seeking assistance. She was appointed as helper in Child Welfare Nutritious Meal Center, Viralipatti vide proceedings dated 02.06.1989. She was subsequently promoted as cook during the year 2001. While so, on 08.06.2020, she was informed by the respondents that she will be retired on 30.06.2020. The respondents had taken such a stand by reckoning the petitioner's date of birth as 01.07.1962. The petitioner thereupon informed the authorities that she was actually born on 10.06.1966 and that error in the entry in the service register must be corrected. Since the respondents did not pay heed to her request, the present writ petition came to be instituted.



W.P(MD)No.7060 of 2020

WEB COPY

3. The respondents have filed a detailed counter affidavit and the only ground of opposition is that the petitioner failed to make such a request within five years after the relevant entries in the service register were made. There is no dispute that the service register of the writ petitioner was opened some time in the year 1996. According to the respondents, the request for correction should have been made within five years.

4. I carefully considered the rival contentions and went through the materials on record.

5. There is no dispute as regards the genuineness of the birth certificate enclosed by the petitioner in the typed set of papers. It is seen therefrom that the writ petitioner was born to one Sangagoundan and Kullammal on 10.06.1966. The date of registration was 24.06.1966. The certified copy of the birth certificate has been issued by the Sub Registrar, Tharagampatti. The only question that arises for consideration is whether the failure of the writ petitioner to seek correction within five years after the service register was opened should be put against the writ petitioner.



W.P(MD)No.7060 of 2020

6. As rightly pointed out by the learned counsel appearing for the petitioner, only if the petitioner seeks alteration of date of birth, limitation bar of five years will come into play as per Rule 49 of the Tamil Nadu State and Subordinate Service Rules, 1955. The case of the petitioner falls within the scope of Rule 49(A) of the said Rules. Rule 49(A)(2) of the Tamil Nadu State and Subordinate Service Rules, 1955 reads as follows:-

“(2) Where the date of birth of a person, whose qualification is less than the minimum general educational qualification, is entered in the Service Register on the basis of the medical certificate or the transfer certificate obtained from the school in which he studied or an affidavit sworn before a Magistrate and if there is any error in the entry so made, the appointing authority may, on application, make necessary correction only with reference to the original record on the basis of which an entry relating to the date of birth is made in the Service Register.”

7. In the present case also, the date of birth of the petitioner whose qualification is less than the minimum general educational qualification was entered in the service register on the basis of the medical certificate issued by the Joint Director of Health Services, Trichirappalli. This obviously cannot prevail over the birth certificate. For making corrections as per Rule 49(A), there is no limitation prescribed. Therefore, the respondents are directed to correct the date of birth of the petitioner as 10.06.1966. Once the petitioner's



W.P(MD)No.7060 of 2020

date of birth is reckoned as 10.06.1966, she will reach the age of superannuation only on 30.06.2026. The petitioner cannot be blamed for the non-employment for the period from 01.07.2020 till date. Therefore, the respondents are directed to permit the petitioner to continue to work as cook. She will be paid the wages for the non-employment period also. The petitioner will be permitted to continue till she reaches the age of superannuation.

8. The Writ Petition is allowed. No costs.

14.09.2022

Index : Yes / No
Internet : Yes/ No
rmi

To

- 1.The District Collector,
Karur District, Karur.
- 2.The Personal Assistant to the Collector,
District Collectorate, Karur District,
Karur.
- 3.The Commissioner / Block Development Officer,
Kadavoor Panchayat Union at
Tharagampatti, Karur District.
- 4.The Child Development Project Officer,
Child Development Project Office,
Kadavoor at Tharagampatti.



WEB COPY



W.P(MD)No.7060 of 2020

G.R.SWAMINATHAN, J.

rmi

W.P(MD)No.7060 of 2022

14.09.2022