



W.P.(MD)No.22859 of 2022

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 29.09.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P.(MD)No.22859 of 2022**

**and**

**W.M.P(MD)No.16980 of 2022**

P.Palanivelu

... Petitioner

Vs

1.The Managing Director,  
Directorate of Municipal Administration,  
75, Urban Administrative Building,  
Santhome High Road,  
MRC Nagar,  
Raja Annamalaipuram,  
Chennai – 600 028.

2.The Municipal Commissioner,  
Kodaikanal Municipality,  
Kodaikanal.

3.The Collector,  
Villupuram District.

4.The Sub-Registrar,  
Sub-Registrar Office,  
Arakandanallur,  
Tirukkivilur Road,  
Villupuram District.

... Respondents



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**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 and 2 to permit the petitioner to correct the date of birth as 23.11.1955 under Rule 39(c) and (d) of the Tamil Nadu Municipal Service Rules 1970 based on the report of the third respondent and pay all back wages and benefits which he is legally entitled too.

For Petitioner : Mr.K.P.S.Palanivel Rajan

For Respondents : Mr.R.Suresh Kumar  
Additional Government Pleader  
for R.1, R.3 & R.4

Mr.T.S.Mohamed Mohideen for R.2

### **ORDER**

Heard the learned counsel on either side.

2. The writ petitioner retired as Revenue Assistant in Kodaikanal Municipality. He is now aged about 67 years. His grievance is that his date of birth was not correctly entered in the service register. It is true that in the petitioner's SSLC Marksheet, the petitioner's date of birth was mentioned as 29.04.1954 and that is how his service register also carried the very same date of birth. Subsequently, the petitioner came across his birth certificate and it was seen therefrom that his actual date of birth is 23.11.1955 and not 29.04.1954. In fact, the petitioner submitted a request for altering his date of



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birth on 13.08.2007. Unfortunately, his employer did not take any prompt steps. As a result, the petitioner had to retire prematurely.

3. The petitioner has now given a representation for altering his date of birth. His claim is that if the date of birth is not altered, the petitioner will not be paid the arrears of pay. He contended that if the respondents consider his request, his pensionary benefits will be revised.

4. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition.

5. I am not persuaded by the submissions of the learned counsel appearing for the petitioner. As rightly pointed out by the learned Additional Government Pleader appearing for the respondents, the law on the subject has been reiterated by the Hon'ble Supreme Court in a recent decision reported in **2021 SCC OnLine SC 767 (Karnataka Rural Infrastructure Development Limited Vs T.P.Nataraja and Others)**. The Hon'ble Supreme Court had held as follows:

*“22. Considering the aforesaid decisions of this Court the law on change of date of birth can be summarized as under:*

*(i) application for change of date of birth can only be as per the relevant provisions/regulations applicable;*



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(ii) even if there is cogent evidence, the same cannot be claimed as a matter of right;

(iii) application can be rejected on the ground of delay and laches also more particularly when it is made at the fag end of service and/or when the employee is about to retire on attaining the age of superannuation.”

6. The relevant statutory provision is Rule 39 of the Tamil Nadu Municipal Service Rules, 1970. It reads as follows:

*“39. **Alteration of date of birth.**— (a) The date of birth of a member of service shall be the date found on record in the S.S.L.C. or Matriculation Register or any school certificate which he produces at the time of his appointment to the service. If a member of a service claims subsequently that his date of birth is different from that entered in the S.S.L.C. or Matriculation Register or school certificate, he shall make an application to the appointing authority, explaining him the mistake occurred and also produce the evidence on which he relies.*

*(b) An application for alteration of the date of birth should not normally be accepted by the appointing authority, if it is made five years after the member had entered a service unless the applicant furnish adequate reasons for not making is application earlier.*



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*(c) The appointing authority shall send the relevant records to the Collector of the district concerned who shall have the matter enquired into by an officer of the Revenue Department not lower in rank than Revenue Divisional Officer. The Collector shall forward with his remarks, if any, the report of the Revenue Divisional Officer concerned and all the relevant records to the State Government. Thereupon the State Government shall pass suitable orders thereon.*

*(d) In considering the question of permitting an alteration in the date of birth as entered in the official records, even when such entry is proved to have been due to a bona fide mistake, the Government or the appointing authority shall take into consideration the circumstances whether the applicant would normally be eligible for appointment to the post at the time of entry into service had his age been correctly stated and what would have been its effect on the service, and Government may permit the alteration subject to such conditions as they may deem fit to impose.*

*(e) The procedure laid down in sub-rules (a) to (d) shall be followed also in case where alteration of date of birth is proposed suo molts by the Head of Office on the basis of medical opinion, in the absence of any other authoritative records.”*

7. The petitioner did not make the request for alteration of date of birth within 5 years. Therefore, on this sole ground, the petitioner will have to be



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non-suited. The Hon'ble Supreme Court made it clear that the request for alteration of date of birth should not be entertained when it is made at the fag end of service or when the employee is about to retire on attaining the age of superannuation. The question of entertaining the request after the petitioner's retirement from service does not arise at all. I sustain the objections raised by the learned Additional Government Pleader for the respondents.

8. This writ petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

**29.09.2022**

Index : Yes / No  
Internet : Yes/ No  
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