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W.P.No.1727 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.1727 of 2020
and WMP.Nos.1998 & 1999 of 2020

R. Sheik

... Petitioner

Vs.

The Commissioner,
Kancheepuram Municipality
Kancheepuram.

... Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records connected with the proceedings issued in Na.Ka.No.7744/2019/H1 dated 19.08.2019 passed by the respondent and quash the same and consequently direct the respondent to produce the petitioner's school certificates which was produced by the petitioner at the time of appointment.

For Petitioner : Mr.S.Illamvaludhi

For Respondent : Mr.G.B.Rajesh



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ORDER

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This writ petition has been filed seeking to call for the records connected with the proceedings issued in Na.Ka.No.7744/2019/H1 dated 19.08.2019 passed by the respondent and quash the same and consequently direct the respondent to produce the petitioner's school certificates which was produced by the petitioner at the time of appointment.

2. The facts of the case in a nutshell:-

2.1 The petitioner was appointed as Sanitary Supervisor on compassionate ground on the demise of his father namely Razak by the proceedings of the Executive Officer, Selection Grade Town Panchayat, Vandavasi by his proceedings issued in 1258/88/A1 dated 08.07.1988 and joined in the said office on 13.07.1988. While joining the duty, the petitioner has surrendered his school certificate and that was accepted by the Executive Officer, Vandavasi Town Panchayat and he has studied upto 8th std in Sannathi School of Vandavasi and his date of birth also mentioned as in the School records as 05.04.1962. The respondent issued a memo on 19.08.2019 by his proceedings issued in Na.Ka.No.7744/2019/H1 that in the petitioner's



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service register the date of birth has been mentioned as 05.04.1960 whereas it was altered as 1962 and the alteration made in service register does not reflect who has done so. Challenging the above order dated 19.08.2019 the petitioner has filed the present writ petition.

3. The learned counsel appearing for the petitioner submitted that at the time of joining, the petitioner's date of birth and name as per the School records is 05.04.1962, R.Sheik and his father's name is P. Razak Maraickkayar and the same has been entered in the service register at the time of joining in Vandavasi Town Panchayat. The learned counsel further submitted that at the time of retirement of the petitioner, while preparing the list of retirees in the year 2020 and while verifying the relevant service register of the retirees it was found in the service register at first page the date of birth of the petitioner is mentioned as 05.04.1960 but subsequently it was changed/alterd as 1962 by pen and even in the second page of the service register it is changed from 1960 to 1962 even in numerical and in words and the same done by different pen and this correction took place when and on what basis there is no detail available and there is no endorsement by the superior officer for the correction made. Hence the petitioner's date of birth is



taken as 05.04.1960 and the date of retirement is declared as 30.04.2020. If at all any person wants to make change in the date of birth it has to be done within 5 years period as per the Government Rules from the date of joining the service and in the instant case the petitioner has joined the service on 13.07.1988 but he has not given any application for correction in the date of birth till his retirement. Hence the correction in the date of birth cannot be done without the approval of the superior authority and the correction made in the service register of the petitioner cannot be accepted and based on his date of birth, the petitioner's date of birth is taken as 05.04.1960 and the retirement date will be 30.04.2020. Subsequently the petitioner also gave a representation dated 24.08.2019 to the Commissioner, Kancheepuram Municipality, Kancheepuram to produce the school records which was produced by him at the time of appointment, since he was working there as on the date of impugned order dated 19.08.2019 and the petitioner also gave another representation dated 05.09.2019 requesting the respondent/The Commissioner, Kancheepuram Municipality, Kancheepuram to produce the school records which he submitted at the time of joining.

4. Per contra, the learned Government Advocate appearing for the



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respondent filed a counter affidavit dated 27.01.2023 and in the counter affidavit the respondent has stated that the petitioner has not produced any School certificate or proof for his date of birth. When the respondent sent a letter dated 17.03.2020 to the “Sannathi Higher Secondary School, Vandavasi, Tiruvannamalai district” where the petitioner studied upto 8th standard, the following informations were given by the school vide S.H.S.V.No.33/2020 dt: 26.03.2020 and the same is extracted as hereunder:-

Name	: R.Sheik
Father's Name	: A. Razak
National and Caste	: Indian-Muslim-Labbai
Date of birth	: 05.04.60 (Five-Four-Sixty)
Admission No.	: 6335/71
Standard	: Eighth Standard Pass (ESSLC – Passed)

6. I submit that the petitioner is always in the habit of filing vexatious and false suit against the respondent in order to achieve his objects. I submit that in the (a) Writ Petition No.26974 of 2012 filed by the petitioner against this respondent he sworn his affidavit that his age is 44 years as on 2012, in (b) Writ Petition No.18451 of 2015 filed by the petitioner Mr.Sheik he has stated that his age is 44 years as on year 2015, in (c) Writ Petition No.10563 / 2015 his age is 44 years as on year 2015, in (d) Writ Petition No.26580 / 2016 filed by the petitioner Mr.Sheik he sworn his affidavit that his age is 55 years as on 2016, in (e) Writ Petition No.1340 of 2017 filed by the petitioner he has sworn



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affidavit that his age is 44 years as on 2017 and in (f) E.P.No.43 of 2013 in O.S.No.244 of 2007 filed by one Mr.Muthu against Mr.Sheik, the petitioner herein, his age is mentioned as 52 years as on 2013. Likewise, he has changed his age according to his whims and fancies and mislead this Hon'ble Court and in the Medical Records of the petitioner issued by the Chengalpet Medical College, Department of Medicine submitted by the petitioner Mr.Sheik to this respondent it has been correctly and clearly mentioned that his age is 40 years as on year 2000 and if so in the year of 2020 his age is 60 years”.

Hence the date of birth of the petitioner is 05.04.1960 and not 05.04.1962 as claimed by the petitioner.

5. Heard both side and perused the materials available on record.

6. The petitioner was appointed as Sanitary Supervisor, Kancheepuram Municipality, Kancheepuram at Vandavasi Selection Grade Town Panchayat, Vandavasi on compassionate ground on the demise of his father in the year 1988 and at the time of joining in the service register his date of birth is mentioned as 05.04.1960. In the service register his date of birth is entered as 05.04.1960 and his name as R.Sheik and his father's name as Razak Marakaiyar and he contended that he has submitted the original school certificate at the time of joining the duty at Vandavasi in the year 1988. In the



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service register at page no.3 the petitioner's date of birth which was originally entered as 05.04.1960 was corrected as 05.04.1962 both in numerical and in words but it is not known who has corrected and there is no evidence or proof to show that the petitioner has corrected the same.

7. The fact is that the petitioner who was appointed initially in the year 1988 at Vandavasi was transferred to Chengamperuratchi again back to Vandavasi Nagaratchi then to Aruppukottai, Tindivanam, Villupuram, Kancheepuram, Chengalpattu and till his retirement at Kancheepuram. As per the details produced by the respondent, the petitioner was transferred to 9 places and whenever he is transferred the service register will also be sent to the new place of posting where the petitioner is transferred. But this Court is not able to understand how the Commissioners of the nine Panchayats have not seen the corrections made in the service register of the petitioner till the same was found when they were preparing the list of the retirees in the year 2020 and verifying the service records of the retirees. The respondent sent a letter dated 07.08.2019 to the petitioner to produce the original certificate but instead he sent a letter dated 24.08.2019 that he has given original school certificate to the respondent and he has not taken any photocopy of the



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original certificate. But contrary to this the petitioner has stated in paragraph No.4 of the affidavit he has surrendered his original school certificate to the Executive Officer of Vandavasi Town Panchayat in the year 1988, where he initially joined as Sanitary Supervisor on compassionate ground. The respondent in order to find the real date of birth of the petitioner sent a letter dated 17.03.2020 to “Sannathi Higher Secondary School, Vandavasi, Tiruvannamalai district” where the petitioner studied up to 8th standard and the following information was furnished by the school vide S.H.S.V.No.33/2020 dt: 26.03.2020 and the same is extracted as below:-

<i>Name</i>	<i>: R.Sheik</i>
<i>Father's Name</i>	<i>: A. Razak</i>
<i>National and Caste</i>	<i>: Indian-Muslim-Labbai</i>
<i>Date of birth</i>	<i>: 05.04.60 (Five-Four-Sixty)</i>
<i>Admission No.</i>	<i>: 6335/71</i>
<i>Standard</i>	<i>: Eighth Standard Pass (ESSLC – Passed)</i>

8. On perusal of the counter affidavit it can be seen that the petitioner has filed several writ petitions and the age mentioned in the affidavit is contrary to each other and this itself proves/shows that the conduct of the petitioner is not good. The respondent also produced a copy of the No



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Objection letter Vide Na.Ka.No.12858/2020/H1 dated 30.04.2020 issued by the Regional Joint Director, Chengalpattu giving no objection to the persons retiring on 30.04.2020 in which the petitioner's name was mentioned in Serial number 2.

9. The learned counsel for the the respondent produced a copy of the proceedings issued by the respondent vide Na.Ka.No.12858/2020/H1 dated 30.04.2020 in which the petitioner was allowed to retire with effect from 30.04.2020 on condition that if any amount is given to the petitioner in excess and if the same is objected during the Audit inspection the same amount will be settled in one lump sum to the respondent or the same may be deducted from the DCRG payable to the petitioner and he has to give an sworn affidavit in Rs.100/- stamp paper dated 24.04.2020 and the same was also given by the petitioner on 29.04.2020.

10. From the above facts, it is crystal clear and evident that the date of birth of the petitioner is 05.04.1960 and not 05.04.1962 as corrected in the service register. At the same time there is no evidence to show that the



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petitioner has corrected the same and since the petitioner was transferred to nine places and the service register was also sent to those places but however the commissioners of respective Panchayats also failed to note the same and only at the time of retirement of the petitioner on 30.04.2020 when they were verifying the records relating to the retirees the respondents found the correction made in the service register of the petitioner. Even in the petitioner's representation dated 05.09.2019 to the respondent requesting to produce the petitioner's school certificate he has also mentioned that a copy of the same is enclosed herewith but the same is not enclosed by the petitioner.

11. This Court after perusing the records comes to the conclusion that the conduct of the petitioner is not good. The details given by the respondent to the “Sannathi Higher Secondary School, Vandavasi, Tiruvannamalai district” on 17.03.2020 tallies with the details submitted by the school regarding the name and date of birth of the petitioner, father's name of the petitioner etc., from which it is proved beyond doubt that the date of birth of the petitioner is 05.04.1960 and not 05.04.1962 as corrected in the service



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register of the petitioner.

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11. In view of the factual matrix of the case this Court is of the considered view that the impugned order in Na.Ka.No.7744/2019/H1 dated 19.08.2019 passed by the respondent does not require any interference at the hands of this Court and accordingly, it is confirmed.

12. In the result this writ petition stands dismissed. No costs. Consequently connected miscellaneous petition are also closed.

28.07.2023

dpq

Index : Yes/No

Speaking Order : Yes/No

To
The Commissioner,
Kancheepuram Municipality
Kancheepuram.



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J. SATHYA NARAYANA PRASAD, J.

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