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W.P.No.4084 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.4084 of 2012

Chinnaiah

... Petitioner

Vs.

The Chief Executive Officer,
Office of the Cantonment Board,
St. Thomas Mount -cum- Pallavaram,
Chennai – 600 016.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the reference No.STM/ADM/PER/0115 office of the Cantonment Board, St. Thomas Mount, Chennai – 600 016 and quashing the order made on 23.01.2008 in the said reference by the Chief Executive Officer, St. Thomas Mount Cantonment and directing the respondent to induct the petitioner in service as Sanitary Supervisor with all salary arrears and attendant benefits and to treat the period from 30.06.2008 till the date of his induction as the petitioner's continuous service.

For Petitioner : M/s. O.R.Abul Kalaam

For Respondent : Mr. C.Mohan
for M/s. King & Partridge



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for Cantonment Board

ORDER

This Writ Petition has been filed questioning the communication dated 23.01.2008 issued by the respondent, informing the petitioner about his date of retirement as 30.06.2008.

2. It is the case of the petitioner that he was appointed as Saifallah, which is a lower grade in the services available in the Conservancy Department of the Cantonment Board, St. Thomas Mount, Chennai on 12.12.1972. At the time of joining the said service, the petitioner has furnished all his educational particulars and in terms of the said educational certificates, his date of birth was 01.12.1954. However, the respondents, instead of considering his Date of Birth as 01.12.1954 intimated him about his date of retirement as 30.06.2008, as against the actual date of superannuation of 01.12.2014.

3. Pursuant to the impugned communication dated 23.01.2008, the petitioner had retired from service on 30.06.2008. Though the petitioner claimed to have submitted several representations and got issued a legal



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notice to the respondents prior to the date of retirement, the petitioner failed to initiate appropriate proceedings for change of his Date of Birth prior to the date of his retirement. The petitioner, having retired from service on 30.06.2008, for the reasons best known had kept quiet till the year 2011, when he got issued another legal notice on 02.01.2011. Even thereafter, the petitioner kept quiet for another year and approached this Court only in the year 2012, questioning the communication dated 23.01.2008. On the face of it, though it appears that the petitioner is questioning his date of retirement, practically the petitioner is seeking change of his Date of Birth that was entered in the Service Registers maintained by the respondent.

4. As already noted above, the petitioner joined in the services of the respondent as early as in the year 1972 and his date of birth was accordingly noted in the service records of the respondent. But for the reasons best known, the petitioner never raised any objection about the entry made in the service records about his Date of Birth till he was informed about his date of retirement in the year 2008 i.e., almost for about 36 years. Further, the petitioner also failed to take appropriate steps after his date of retirement for almost a period of 4 years.



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5. The law with regard to the change of Date of Birth is well settled and the Hon'ble Apex Court in the case of ***Karnataka Rural Infrastructure Development Limited -vs- T.P.Nataraja and other*** reported in [(2021) Vol 12 SCC 27], after having reviewed the entire case law available by then, held as under:

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

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

(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.

12. *Therefore, applying the law laid down by this Court in the afore said decisions, the application of the respondent for change of date of birth was liable to be rejected on the ground of delay and laches also and therefore as such respondent employee was not entitled*



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to the decree of declaration and therefore the impugned judgment and order passed by the High Court is unsustainable and not tenable at law.”

6. In the light of the law laid down by the Hon’ble Apex Court as noted above and also taking into consideration of the fact that the petitioner has kept quite for about 36 years, while he was in service, without raising any objection about his Date of Birth as entered in the service records and also kept quite for about 4 years after his date of retirement, this Court is of the considered view that the petitioner is not entitled for any relief in this Writ Petition and the same is accordingly dismissed. There shall be no order as to costs. Miscellaneous Petitions, if any, shall stand closed.

28.11.2023

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

The Chief Executive Officer,
Office of the Cantonment Board,
St. Thomas Mount -cum- Pallavaram, Chennai – 600 016.



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MUMMINENI SUDHEER KUMAR, J.

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