



W.P.No.10562 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE J. SATHYA NARAYANA PRASAD

W.P.No.10562 of 2020
and WMP.Nos.12826 & 12829 of 2020

M. Govindasamy

... Petitioner

Vs.

1. The State of Tamil Nadu
rep.by its Secretary to Government
Revenue Administration Department,
Secretariat, Fort St.George,
Chennai 600 009.
2. The Principal Secretary/
Commissioner of Revenue Administration
Chepauk, Chennai 600 005.
3. The Commissioner of Social Welfare
Commissionerate of Social Welfare
2nd floor, Panagal Building,
Saidapet, Chennai 600 015.
4. The Revenue Divisional Officer
Chidambaram,
Cuddalore District.
5. The Project Officer
Integrated Child Development Project Officer,
District Collector Office Campus,
Cuddalore.



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6. Child Development Project Officer,
No.740, Murugesan Kovil Street,
Keerapalayam,
Cuddalore District.

7. The Head Master,
T.E.L.C Senior Junior Basic School,
Chidambaram 608 001.
(R7 suo motu impleaded vide order
dated 02.08.2023 made in WP.No.10562 of 2020)

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified calling for the records pertaining to the order passed by the 2nd respondent in his proceedings letter No.RA.3(3) 10631/2017 dated 29.02.2020 and consequential order passed by the 3rd respondent in his proceedings Na.Ka.No.20214/Nir 2(3)/2019 dated 15.06.2020 and quash the same and direct the respondents 2 and 3 to carry out the correction of date of birth of the petitioner as 05.06.1964 instead of 05.06.1962 in the school records and service register so as to enable the petitioner to continue in service up to 31.06.2024 and confer all the consequential benefits.

For Petitioners : Mr.V.Sivalingam
for M/s.C.S.Associates

For Respondents : M/s.P.Vijaya Devi
Government Advocate for R1 to R6



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ORDER

The petitioner has filed this writ petition seeking to call for the records pertaining to the order passed by the 2nd respondent in his proceedings letter No.RA.3(3) 10631/2017 dated 29.02.2020 and consequential order passed by the 3rd respondent in his proceedings Na.Ka.No.20214/Nir 2(3)/2019 dated 15.06.2020 and quash the same and direct the respondents 2 and 3 to carry out the correction of date of birth of the petitioner as 05.06.1964 instead of 05.06.1962 in the school records and service register so as to enable the petitioner to continue in service up to 31.06.2024 and confer all the consequential benefits.

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

2.1 The petitioner was appointed as Junior Assistant through Tamil Nadu Public Service Commission on 25.08.2011 and he was promoted as Assistant on 25.08.2015 and further promoted as Superintendent on 07.06.2018. The petitioner was born on 28.06.1964 and admitted in the 1st standard and his date of birth was correctly entered as 28.06.1964 in the school record. Since the petitioner has failed in school stages he obtained transfer certificate from the school and his date of birth was mentioned as 05.06.1962



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instead of 28.06.1964. After school studies the petitioner also acquired B.Com., and M.Com., The petitioner was not aware of the date mentioned as 05.06.1962 instead of 28.06.1964 and approached the Educational Authorities since he has already left the school they advised him to get a Court order as his date of birth was not registered. According to the petitioner's Horoscope his date of birth is 28.06.1964 and in one stage in school records they have mentioned as 05.06.1962 and another stage as 05.06.1964. Thereafter, the petitioner's father made an application before the Judicial Magistrate, Chidambaram in O.P.No.3372 of 1998 and the petition was ordered on 11.11.1998. Enclosing the above order, the petitioner applied to Municipality, Chidambaram to give date of birth certificate and they also issued birth certificate. The petitioner appointed on 25.08.2011 and joined as Junior Assistant in the Social Welfare Department.

2.2 As per the rules, a person who wants to make correction in the date of birth has to make application within five years from the date of appointment and in the present case the petitioner was appointed on 25.08.2011 and made a representation on 02.09.2013 to the Child Development Project Officer, Mel Bhuvanagiri requesting to send the same to Commissioner of



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Revenue Administration since he was working under them. The said application was sent to Directorate of Social Welfare and who in turn sent the application to Commissioner of Revenue Administration on 11.08.2017. As per the procedure, they have to call for report from the Revenue Divisional Officer and accordingly the papers were sent to the Revenue Divisional Officer and has not conducted enquiry and submitted report. However, the Revenue Divisional Officer has not conducted enquiry and submitted the report. The petitioner has filed W.P.No.6651 of 2019 before this Court seeking direction to the respondents to consider his representation made for correction of his date of birth as 28.06.1964 instead of 05.06.1962. This Court by order dated 07.03.2019 directed the respondents to consider the representation submitted by the petitioner on 12.06.2017 and pass orders on merits and in accordance with law within a period of 12 weeks from the date of receipt of a copy of the order and the second respondent passed an order on 09.02.2020 and based on that the third respondent rejected his claim on 15.06.2020 on the ground that conclusive evidence not submitted by the petitioner and the same was served to the petitioner on 07.07.2020 by the fourth respondent. Aggrieved by the order passed by the second respondent and the consequential order passed by the third respondent, the petitioner has come forward with the present writ petition.



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3. The learned counsel appearing for the petitioner submitted that the petitioner's correct date of birth is 28.06.1964 and the same has been correctly entered in the school records from 1st to 7th standard but in the High School and Higher Secondary school records it is mentioned as 05.06.1962 and it is an admitted fact that the date of birth was not registered immediately after his birth which resulted in non entry. Therefore the petitioner's father filed a petition before the Judicial Magistrate Chidambaram in O.P.No.3372 of 1998 and the petition was ordered on 11.11.1998 stating that his date of birth as 28.06.1964 and based on that order the petitioner gave an application dated 02.09.2013 within five years from the date of his appointment i.e., 25.08.2011 to correct the date of birth as 28.06.1964 instead of 05.06.1962. Then on 28.09.2017 the Revenue Divisional Officer, Chidambaram directed the Tahsildar Chidambaram to conduct an enquiry with the concern person and to collect the relevant documents and submit the same within three days to his office. Based on the above instructions, the Revenue Tahsildar Chidambaram conducted an enquiry and submitted a report dated 19.01.2016 in which he has stated that it is confirmed that as per the Primary School records of the petitioner his date of birth is 28.06.1964. As per the Primacy School records the petitioner is only



born on 28.06.1964 but it is wrongly mentioned in the other records as 05.06.1962. Hence it is recommended to change the date of birth as 28.06.1964 instead of 05.06.1962.

4. The learned counsel further submitted that the petitioner has filed W.P.No.6651 of 2019 to consider the representation of the petitioner dated 02.09.2013 and this Court by order dated 07.03.2019 directed the respondents to consider the representation of the petitioner dated 12.06.2017 and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of the order. Then the second respondent passed an order on 29.02.2020 rejecting the claim of the petitioner to alter his date of birth as 28.06.1964 instead of 05.06.1962. Then the order dated 15.06.2020 was passed by the third respondent informing the Child Development Project Officer, Mel Bhuvanagiri about the action taken based on the order passed in W.P.No.6651 of 2019 dated 07.03.2019 and letter of the Directorate of Social Welfare dated 04.02.2020 along with the copy of the proceedings passed by the Commissioner of Revenue Administration Chennai/second respondent herein.



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5. The learned Government Advocate appearing for the respondents submitted that the third respondent has filed a counter affidavit dated 10.11.2020 and in which the third respondent has stated that Revenue Divisional Officer, Chidambaram in his Roc.No.A8/4423/2017, dated 19.01.2018 has stated that from the school records of the petitioner it is found that his date of birth is 28.06.1964 and it was wrongly entered as 05.06.1962 and recommended for correction. The Commissioner of Revenue Administration/2nd respondent herein in his letter dated 29.02.2020 addressed to the Commissioner of Social Welfare has informed that the petitioner has entered his date of birth as 28.06.1964 during admission in 1st standard and then as 05.06.1962 during 7th standard and 9th standard and the petitioner has not furnished any conclusive evidence to prove his date of birth. Hence it is recommended to reject the claim of the petitioner to alter his date of birth as 28.06.1964 instead of 05.06.1962. The Commissioner of Revenue Administration, Chennai by impugned order dated 29.02.2020 informed the petitioner that Revenue Department is the authority concerned to give certificate for date of birth and the Revenue Department has rejected the claim of the petitioner to alter his date of birth as 28.06.1964 instead of 05.06.1962.



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6. The learned Government Advocate further submitted that the Revenue Authorities are the competent authority to alter the date of birth of the petitioner after due enquiry. The Commissioner of Revenue Administration has rejected the claim of the petitioner to alter his date of birth as 28.06.1964 instead of 05.06.1962 in letter No.RA 3(3)/10631/2017 dated 29.02.2020. As the Commissioner of Revenue Administration has rejected the claim of the petitioner, carrying out alteration of date of birth in the Service Register of the petitioner is against the Rules in force and in the ambit of law.

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

8. In the instant case, in the Primary school records the date of birth of the petitioner was recorded as 28.06.1964 but in the school records of 7th standard and 10th standard it is mentioned as 05.06.1962. The petitioner joined his service on 25.08.2011 and submitted the application for alteration of date of birth on 02.09.2013 i.e., within a period of 5 years from the date of appointment as per the rules. The application was submitted to the Directorate of Social Welfare and who in turn sent the application to Commissioner of Revenue Administration on 11.08.2017. Thereafter report was called for from



the Revenue Divisional Officer, Chidambaram. In the order passed by the Commissioner of Revenue Administration, Chennai/second respondent dated 29.02.2020 it is mentioned that as per the 7th to 10th standard school certificate and S.S.L.C Book the date of birth of the petitioner is mentioned as 05.06.1962, which is contrary to the date of birth (05.06.1964) mentioned in the 1st to 7th standard school certificates. The petitioner has entered his date of birth as 28.06.1964 during admission in 1st standard and then as 05.06.1962 during 7th and 10th standard and the petitioner has not furnished any conclusive evidence to prove his date of birth. Hence, it was recommended to reject the claim of the petitioner to alter his date of birth. Based on the order passed by the second respondent dated 29.02.2020, the third respondent has passed an order on 15.06.2020 informing the Child Development Project Officer, Keerapalayam, Cuddalore district. At this juncture, it is relevant to extract the relevant portion of the impugned order dated 29.02.2020 passed by the second respondent and the same is extracted as below:-

18. The petitioner has then filed CMP.No.3372 of 1998 before the Hon'ble District Munsif Court No.2, Chidambaram on 15.10.1998 (i.e., before entry into Government service) to alter his date of birth as 28.06.1964 instead of 05.06.1962. The Hon'ble District Munsif Court No.2, Chidambaram in its order dated 11.11.1998 has allowed the case CMP.No.3372 of 1998. Based on the above court



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orders, the birth of the petitioner has been registered on 18.11.1998 and the petitioner has obtained birth certificate with date of birth 28.06.1964 from the Chidambaram Municipality on 14.12.1998. The petitioner has also requested to alter his date of birth as 28.06.1964 instead of 05.06.1962 within 5 years of entry into Government service.

21. The petitioner has entered his date of birth as 28.06.1964 during admission in 1st standard and then as 05.06.1962 during VIIth standard and Xth standard. The petitioner has not furnished any conclusive evidence to prove his date of birth.

9. Since there was no clarity in the order passed by the Commissionerate of Revenue Administration and Disaster Management, this Court was of the view that it is necessary to implead the school where the petitioner studied from Ist standard to VIIth standard and accordingly T.E.L.C Senior Junior Basic School, Chidambaram 608 001 was suo motu impleaded by this Court on 02.08.2023 as 7th respondent in this writ petition.

10. The petitioner has submitted a copy of the students attendance register (first day) issued by the T.E.L.C Senior Junior Basic School, Chidambaram 608 001, wherein the date of birth of the petitioner was mentioned as 05.06.1964. Since the original students attendance



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register (first day) has to be verified by this Court it was necessary to implead the T.E.L.C Senior Junior Basic School, Chidambaram 608 001 as one of the respondent in this writ petition and was impleaded as 7th respondent. Mr.S.Titus Isravel, Head Master, T.E.L.C Aided Middle School, Chidambaram – 608 001 who has been suo motu impleaded as the 7th respondent was present before this Court on 18.08.2023 and submitted the original Attendance Register of the school where the petitioner has studied from 1st standard to 7th standard. On perusal of the aforesaid Attendance Register (first day) the date of birth of the petitioner was clearly mentioned as 05.06.1964. Hence it is crystal clear and evident that the petitioner was born on 05.06.1964 and not on 05.06.1962. This Court is of the considered view that the order passed by the 2nd respondent in his proceedings letter No.RA.3(3) 10631/2017 dated 29.02.2020 and consequential order passed by the 3rd respondent in his proceedings Na.Ka.No.20214/Nir 2(3)/2019 dated 15.06.2020 are liable to be quashed and the same are hereby quashed.



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11. In the result, the writ petition stands allowed and the 2nd and 3rd respondents are directed to carry out the correction in the Date of Birth of the petitioner as 05.06.1964 instead of 05.06.1962 in the school records and service register as if the petitioner continued in service till the date of his superannuation dated 31.06.2024. No costs. Consequently, connected miscellaneous petitions are also closed.

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Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
dpq



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To

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rep.by its Secretary to Government
Revenue Administration Department,
Secretariat, Fort St.George,
Chennai 600 009.
2. The Principal Secretary/
Commissioner of Revenue Administration
Chepauk, Chennai 600 005.
3. The Commissioner of Social Welfare
Commissionerate of Social Welfare
2nd floor, Panagal Building,
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4. The Revenue Divisional Officer
Chidambaram,
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5. The Project Officer
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