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WP.No.20031 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2023

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUIMAR

WP.No.20031 of 2023
and W.M.P.No.19383 of 2023

K.Chandrasekaran

.. Petitioner

Versus

1.The Director
Public Health & Preventive Medicine
Teynampet, DMS Compound
Chennai – 600 006

2.The Director of School Education
Nungambakkam, Chennai – 600 006

3.The Commissioner
Corporation of Madras
Chennai – 600 003

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to consider the Aadhar and PAN date of birth entry as valid document for the purpose of service record.

For Petitioner : Mr.R.Lawrence

For Respondents : Mr.V.Jeevagiridharan for R1 & R2
Additional Government Pleader
Mr.P.Prithvi Chopda for R3
Standing Counsel



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ORDER

This Writ Petition has been filed seeking to direct the first respondent to consider the Aadhar and PAN date of birth entry as valid document for the purpose of service record.

2. It is the case of the writ petitioner that he is employed at Guindy in Public Health and Preventive Medicine, King Insitute as Assistant and has put 14 years of service and now he was informed by the first respondent that he will be retiring on 31.08.2023. According to him, his date of birth was wrongly mentioned as 15.07.1963, it was a bonafide mistake and mistake committed by illiterate parents. According to him, original date of birth is mentioned in the PAN card and Aadhar Card as 15.07.1966 and as per the actual date of birth, his retirement date would be 31.08.2006. Hence, the same has to be considered.

3. The learned counsel for the petitioner would submit that though the date of birth is mentioned as 15.07.1963, it is a bonafide mistake and whereas, the correct date of birth is 15.07.1966. As per Rule 49 of the Tamil Nadu State and Subordinate Service Rules, the date of birth can be altered by the appointing authority when such entry is proved to have been due to a bonafide mistake. He also placed reliance in the Order of the Single Bench of this Court



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in the case of *K.Obaiah & another Vs. The Thiruverkadu Municipality* made in

W.P.Nos.3870 and 3871 of 2014 dated 12.06.2019, whereas, the learned Single

Judge refers 39(e) & (d) of Tamil Nadu Municipal Service Rules, 1970 and directed the respondent therein to alter the date of birth of the petitioners therein.

4. Heard both sides and perused the materials placed on record.

5. As far as the alteration of the date of birth in the service record is concerned, it is well settled that such an application ought to have been given within 5 years from the entry of service as per Section 59(2) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

6. Section 59(2) & (3) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 reads as follows:

"...59

...

(2) After a person has entered service, an application to alter the date of his birth as entered in the official records shall be entertained only if such an application is made within five years of such entry into service. Such an application shall be made to the authority competent to make an appointment to the post held by the applicant at the time of his application and shall be disposed of in accordance with the procedure laid down in sub-section (1).



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(3) Any application received after five years after entry into service or any application, which is not supported by entries in Secondary School Leaving Certificate, School, College or University records, birth extract from records of local bodies or military discharge certificates, shall be summarily rejected. "

7. On a perusal of the above would indicate that if such application to alter the date of birth as entered in the official records is made within five years of entry into service to the authority competent to the post held by the applicant at the time of application shall be disposed of in accordance with the procedure laid down in sub-section (1). Sub-clause 3 would make it clear that any application received after five years, which is not supported by entries in Secondary School Leaving Certificate, School, College or University records, birth extract from records of local bodies or military discharge certificates, shall be summarily rejected.

8. Such view of the matter, merely, on the basis of the Aadhar Card and PAN Entry, one cannot contend that it is a conclusive nature of the date of birth, when the Rule itself stipulates that such application should be made within a particular period. At the fag end of service, merely, on the basis of Aadhar Card and PAN Entry, one cannot seek alterations of the date of birth. Accordingly, I do not find any merits in this case.



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WEB COPY 9. In view of the above, this writ petition stands dismissed.

Consequently, connected miscellaneous petition is closed. No costs.

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Index:Yes/No

Internet: Yes/No

To

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N.SATHISH KUMAR, J.



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