



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 31.10.2023

CORAM

THE HONOURABLE MR.JUSTICE V.BHAVANI SUBBAROYAN

WP No.19849 of 2018

T.Kandhasamy

..Petitioner

Vs.

1. The Chief Engineer (H),
Highways and Rural Works Department,
Chennai.
2. The Superintending Engineer (H),
Tamil Nadu Agricultural Development Project (TNADP)
Madurai
3. The Divisional Engineer (H),
Tamil Nadu Agricultural Development project (TNADP),
Chengalpet
4. The Chief Director (H),
National Highways Department,
HRS Complex, Guindy,
Chennai 600 025

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for a writ of Mandamus directing the respondents to process my application dated 28.04.1997 and alter the date of birth from 10.02.1966 to 06.12.1966 of the petitioner in his service record.



For Petitioner : Mr.R.Syed Mustafa
For Respondent : Mr.L.S.M.Hasan Fizal
Additional Government Pleader

ORDER

This writ petition has been filed seeking for a direction to the respondents to process the petitioner application dated 28.04.1997 and alter the date of birth from 10.02.1966 to 06.12.1966 of the petitioner in his service record.

2. The brief facts of this case leading to filing of this writ petition are as follows :-

(a) The petitioner joined the service of the respondents on 17.06.1993 as Assistant Engineer through Tamil Nadu Public Service Commission and he is now currently working as Divisional Engineer (H). The petitioner's date of birth was wrongly entered in the service register as 10.02.1966 instead of 06.12.1966. In this regard, the petitioner had sent a representation to the 1st respondent on 28.04.1997



requesting to change his date of birth in the service register.

(b) In order to substantiate his claim for change of date of birth, the petitioner enclosed his certificate of birth and copy of the first page of his SSLC book. Thereafter on 08.05.1997, the 2nd respondent has forwarded his letter No.3047/97/E1 along with all the necessary documents to the 1st respondent.

(c) Further, a memo No.3904/97/N.2/NH-45 dated 11.12.1997 by the 1st respondent requested the 2nd respondent to furnish certain particulars pertaining to alteration of date of birth. In turn, the 2nd respondent sent a Memo No.3047/97/A1 dated 24.12.1997 to the 3rd respondent sought for some particulars. As requested by the 1st respondent as well as by the 2nd respondent, the 3rd respondent, sent documents viz., Service Register, Transfer certificate of my sister, Educational qualification of the petitioner's brother, appointment order issued by TNPSC, etc., pertaining to the change of date of birth.



WEB COPY



(d) As per Rule 49 of the Tamil Nadu State Subordinate and Service Rules, the petitioner had submitted an application well within a period of five years from the date of appointment and thus, the petitioner made all efforts continuously for change of date of birth and also provided with the necessary material particulars requested from the petitioner. Thereafter, once again the petitioner made a representation dated 02.05.2018 to the 4th respondent requesting for change of date of birth in his service register.

(e) In spite of several representations submitted by the petitioner and providing all documents to the respondents, no action has been taken by the respondents in considering the petitioner request for change of date of birth.

(f) Left with no other option, the present writ petition has been filed before this Court seeking for appropriate directions.

3. The learned counsel appearing for the petitioner would



submit that the petitioner's contention is supported by the birth certificate issued by the local authority. After realizing the fact that the date of birth was wrongly given, within five years from the date of joining in service, the petitioner applied for alternation of date of birth on 28.04.1997 and followed by many representations. He referred to Rule 49 of the Tamilnadu Subordinate Service Rules and submitted that the petitioner filed the application within five years for change of date of birth with required documents in support of his claim and therefore, his claim can be considered.

4. Mr.L.S.M.Hasan Fisal, learned Additional Government pleader for respondents has filed the Counter affidavit and the relevant portion in the counter affidavit is extracted hereunder :-

4. It is submitted that in the petitioner's transfer certificate and SSLC Mark sheet his date of birth was recorded as 10.02.1996. As per the Rule 5 of the Secondary School leaving Certificate, any correction in the date of birth before completing the SSLC examination. After jointing in the Government Service only the petitioner submitted the representation regard alteration of



WEB COPY



date of birth. Based on the above rule, the petitioner's date of birth alternation cannot be entertained. On the sole ground, this writ petition is dismissed.

5. The learned counsel for the respondent relied upon the judgements passed by this Court in the cases of *[Santhosh kumar Vs.State of Tamil Nadu and other]* in WP No.17792 of 2004 vide order dated 11.07.2017 and in the case of *[B.Karunakaran Vs. the Secretary, State board of School Education, Tamil nadu]* in WP No.10641 of 2016 order dated 15.03.2017; *[S.Indumathi Vs. The Chief Secretary to Government of Tamil nadu]*, wherein the claim of the petitioners with regard to alternation of date of birth was rejected.

6. Though the petitioner had submitted an application well within a period of five years from the date of appointment, as per Rule 49 of the Tamilnadu Subordinate Service Rules along with necessary documents supporting his claim for alteration of his date of birth, the respondents have not chosen either to reject or consider the petitioner's claim. The act of respondents by keeping the claim of the petitioner



WEB COPY

pending even after verifying the correctness of the documents within the official respondent, is not acceptable and therefore, there shall be a direction to the respondents to consider the claim of the petitioner after taking into account the letter issued by the Chief Engineer, Greater Chennai dated 14.06.2018 and pass appropriate orders, in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

7. This writ petition is disposed of accordingly. No costs.

31.10.2023

Index:Yes/No
Internet :Yes /No
rka



WEB COPY



V.BHAVANI SUBBAROYAN.,J

rka

To

1. The Chief Engineer (H),
Highways and Rural Works Department,
Chennai.
2. The Superintending Engineer (H),
Tamil Nadu Agricultural Development Project (TNADP)
Madurai
3. The Divisional Engineer (H),
Tamil Nadu Agricultural Development project (TNADP),
Chengalpet
4. The Chief Director (H),
National Highways Department,
HRS Complex, Guindy,
Chennai 600 025

WP No.19849 of 2018

31.10.2023