



WP.No.23811 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.23811 of 2023

& WMP.No.23321 of 2023

A.Palanisamy

...Petitioner

Vs

1.The District Collector,
Cuddalore.

2.The Managing Director,
Neyveli Lignite Corporation
India Ltd., Block No.1,
Neyveli-607801.

3.The Deputy General Manager/
ES, Neyveli Lignite Corporation
India Ltd., Navratna HR
Department - Employees
Service, PRO Building, Block 2,
Neyveli-607801.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the second respondent dated 02.6.2023 in Lr.No.CORP/HR/ES/1315-50/2023, quash the same and consequently direct respondents 2 and 3 to correct the date of birth of the petitioner from 09.11.1965 to 09.11.1971.



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For Petitioner : Mrs.AL.Gandhimathi for
Mr.L.Palani Muthu

For R1 : Mr.M.S.Prem Kumar, GA

For R2 & R3 : Mr.Nithyanandam

ORDER

This is a petition filed by the petitioner seeking to quash the order dated 02.6.2023 passed by the third respondent and to direct respondents 2 and 3 to correct the date of birth of the petitioner from 09.11.1965 to 09.11.1971.

2. The facts leading to filing of this case are as follows :

(i) The petitioner joined as a contract labour with Neyveli Lignite Corporation Contractor in 1985. He worked under various contractors till 2012. The petitioner does not have a birth certificate. In the school certificate, his date of birth was entered as 09.11.1965 and this was handed over to the Neyveli Lignite Corporation in 2011. Thereafter, the petitioner joined as a contract labour in M/s.NLC Inteco Services as an unskilled worker in 2013 vide proceedings dated 06.5.2021, he was appointed to the



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post of Assistant Industrial Worker/Trainee (W-OA Grade).

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(ii) At the time of appointment, when the certificates of the petitioner were verified, he came to know that his date of birth was wrongly entered as 09.11.1965 instead of 09.11.1971. Immediately thereafter, he applied to the first respondent. In turn, the District Medical Board, Cuddalore District conducted a detailed enquiry and issued a birth certificate showing his date of birth as 09.11.1971.

(iii) As per Note 6 under Fundamental Rules 56, an alteration in the date of birth could be made by a Government servant within five years of his entry into government service and the request has to be made within five years of his entry into government service. Hence, the petitioner sent a representation to respondents 1 and 2 seeking to change his date of birth in the service records. However, the third respondent, by the impugned order, rejected the request made by the petitioner on the ground that Clause 6.13 of the Procedure for Assessment of Age as per the HR Manual would reveal that the age of a workman/employee as recorded with the company at the time of his employment should not be sought to be altered by the workman and that Clause 6.3.2 of the Procedure for Recording the Date of Birth as



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per the HR Manual would also reveal that if an individual had already signed in the service record where the date of birth had been recorded and if the employee raised a dispute about it, but did not produce the required proof, no medical assessment would be necessary. Challenging the same, the petitioner is before this Court.

3. Learned counsel appearing for the petitioner would submit that the order of the 2nd respondent in refusing to correct the date of birth is arbitrary and illegal as the 2nd respondent while rejecting the request of the petitioner for alteration of date of birth in his service records, had failed to see that immediately after the joining the services of the respondent corporation, the petitioner had made a representation along with proof for his date of birth such as the age certificate obtained from the District Medical Board, Cuddalore mentioning the date of birth as 09.11.1971 and other necessary documents which shows the total non-application of the mind of the 2nd respondent while passing the impugned award. Accordingly, he prayed for allowing this Writ Petition.



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4. Learned counsel appearing for respondents 2 & 3 would that even at the time of his appointment on 09.06.2021, the workman declared his date of birth as 09.11.1965 by producing documents such as aadhar card, PAN card and school records. As per Clause 6.13 of the Procedure for Assessment of Age as per the HR Manual, once an individual had already signed in the service records where the date of birth of the workmen had been recorded, the age of a workman/employee as recorded with the company at the time of his employment cannot be sought to be altered. He further submitted that as per Section 9(3) of the Tamil Nadu Registration of Births and Deaths Rules, 2000, any birth or death which has not been registered within a period of one year of its occurrence shall be registered by an order of the Executive Magistrate on payment of necessary fee or by an order of Metropolitan Magistrate in terms of G.O.Ms.No.293, Tamil Nadu Health and Family Welfare Department, dated 02.12.2016. However, in the present case, without following the above said procedures, the petitioner has obtained the age certificate showing his date of birth as 09.11.1971 from the District Medical Board, Cuddalore District who is incompetent to issue the same. Accordingly, he prayed for dismissing this Writ Petition.



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5. On the above contention, this Court heard the learned Government Advocate appearing for the first respondent and perused the materials available on record.

6. It is the case of the petitioner that his date of birth has been wrongly entered into his service records as 09.11.1965 instead of his original date of birth 09.11.1971 of which, he had no knowledge till the year 2021 which is at the time of his appointment to the post of Assistant Industrial Worker/Trainee (W-OA Grade) in the respondent corporation and that immediately after coming to know the above fact, the petitioner approached the District Medical Board, Cuddalore and obtained the age certificate mentioning his date of birth as 09.11.1971.

7. As rightly pointed out by the learned counsel appearing for the respondent corporation that the proper course open for the petitioner for altering his date of birth would be to obtain appropriate orders from the Judicial Magistrate in terms of Section 9(3) of the Tamil Nadu Registration



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of Births and Deaths Rules, 2000 or from the Metropolitan Magistrate in terms of G.O.Ms.No.293, Tamil Nadu Health and Family Welfare Department, dated 02.12.2016. However, in the present case, neither of the procedures have been followed by the petitioner. Hence, the relief sought for by the petitioner cannot be acceded to and this Writ Petition deserves to be dismissed. However, liberty is granted to the petitioner to work out his remedy to approach the competent authority with regard to alteration of date of birth.

8. For the reasons aforesaid, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition stands closed.

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Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No

NHS

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