



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2023

CORAM

THE HON'BLE Mr. JUSTICE **C. V. KARTHIKEYAN**

W.P.No.16188 of 2017

and

W.M.P.Nos.17487, 17488 and 17489 of 2017

M. Thiruvalluvan

.. Petitioner

Vs.

1.The Commissioner of Revenue Administration
Chepauk
Chennai – 600 005.

2.The District Collector
Nagapattinam District
Nagapattinam.

3.The District Revenue Officer
Nagapattinam District
Nagapattinam.

4.The Revenue Divisional Officer
Nagapattinam Taluk
Nagapattinam District.

5.The Tahsildar
Nagapattinam Taluk,
Nagapattinam District.

.. Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 4th respondent in Na.Ka.No.1881/2017/A1 dated 26.05.2017 (served on 12.06.2017) and to quash the same and consequently direct the respondents to pass appropriate orders for altering the date of birth of the petitioner in the service register as 01.06.1960 instead of 04.06.1959 as per the application with original birth extract dated 15.09.2009 submitted by the petitioner and consequently allow the petitioner to continue in service till the date of reaching the age of superannuation based on such revised date of birth, with all consequential and other attendant benefits within a time frame.

For Petitioner .. Mr. G. Sankaran

For Respondents .. Mr. K. Surendharan, AGP

ORDER

The Writ Petition has been filed in the nature of Certiorarified Mandamus seeking records relating to the proceedings of the 4th respondent, the Revenue Divisional Officer, Nagapattinam Taluk, Nagapattinam, in Na.Ka.No.1881/2017/A1 dated 26.05.2017 and to quash the same and direct



the respondents to pass necessary orders to alter the date of birth in the service register from 04.06.1959 to 01.06.1960. The petitioner claims that he had given an application along with the original birth extract on 15.09.2009. The petitioner therefore claims that it should be considered that the petitioner continued in service till the age of superannuation, based on the revised date of birth.

2.The petitioner herein was appointed as Village Administrative Officer at Orathur Village, Nagapattinam Taluk by proceedings of the 4th respondent, the Revenue Divisional Officer, Nagapattinam, on 14.02.2009. He joined the post on 19.02.2009. He was appointed on the basis of Special Qualifying Examination conducted in the year 2008 in accordance with G.O.Ms.No.439 Revenue Department dated 15.07.2008. His date of birth had been entered in the service register as 04.06.1959. Based on the entry in the school records, he claimed that he was actually born on 01.06.1960 in the Government Hospital, Velipalayam, Nagapattinam. He also claimed that it was so mentioned in the original birth extract issued by the Nagapattinam Municipality. He claimed that as per Rule 49 of the Tamil Nadu State and Subordinate Service Rules, a candidate who claims that his date of birth is



different from that of the school records, can make an application to the appointing authority to alter the date of birth within five years of entering into service, and any application made beyond five years cannot be entertained. The petitioner claimed that he had given necessary application along with the records to show that he was actually born on 01.06.1960 to the 5th respondent / the Tahsildar, Nagapattinam Taluk.

3.It is the grievance of the learned counsel for the petitioner that though the 5th respondent had received the application and there is entry for receipt of the same, he had not forwarded it to the appropriate authorities. It is however stated that, it is a fact that, the 5th respondent was not the competent authority.

4.In the counter affidavit filed, it had been very specifically stated that there are no records to show that the petitioner had made an application on 01.12.2010 within the period of five years from the date of entering into the service as claimed by him. It is stated that necessary records should have been produced at the time of opening the service register. It is also stated that the 5th respondent was not the competent authority to entertain the



application. It is also stated that there was no file available in the office of the 5th respondent with respect to the application. It had also been stated that the petitioner should have taken up the responsibility to follow up the application and having kept silent from 19.02.2009 to 28.04.2017, it is claimed by the respondents that the request of the petitioner has to be rejected on the ground not only on delay, but more importantly on the ground of laches.

5.The learned counsel for the petitioner was also of the opinion that the 5th respondent may not be the competent authority to receive the application. But, it is stated that subsequently a representation was also given by the petitioner on 23.04.2017, in which he referred to the earlier application and stated that since he was due to retire on 30.06.2017 necessary entries may be made in the service register.

6.The 4th respondent issue the impugned order. In the impugned order it had been very clearly stated that there is no record to show that the petitioner had given application in the year 2010 as claimed by him. It is also stated that the petitioner having failed to give proper application within



five years as contemplated under the rules, the petitioner cannot be entitled for any relief. On the side of the respondents, they reiterated the same fact and emphasised that the petitioner who knows the rules and regulations of service, having worked for nearly ten years, should have given application in the initial period within a period of five years.

7.I have carefully considered the materials on record and the arguments advanced.

8.It is a fact that the petitioner had joined services after writing a qualifying examination. While filling up the examination form, there was an opportunity for him to fill up the date of birth. The date of birth as given by him was in accordance with school certificate. The school certificate is to verify, whether the petitioner had minimum qualification to apply for the post of Village Administrative Officer. The service records which had been opened at the time of entering the service as Village Administrative Officer contained the same date of birth as was found in the school record namely, 04.06.1959. Subsequently, however, the petitioner claimed that he was actually born on 01.06.1960 and to this extent, he produced the birth extract



issued by the Nagapattinam Municipality. However, that particular certificate had not been produced before the school authority to correct the school records. The service register continued to have the same date of birth as was found in the school records.

9.It is the contention of the petitioner that within five years from the date of joining, as a matter of fact within a year, in the year 2010, he had given an application seeking change in the date of birth and correction in the entry with respect to the date of birth in the service register. But there is no record for such application being made. The respondents denied that the petitioner had given application on 01.12.2010. The petitioner was not able to substantiate this particular fact. It is also seen that the said application was given to the 5th respondent, who is not the competent authority to entertain such an application.

10.The learned counsel stated that the subsequent application in the year 2017 was also given to the 5th respondent, who forwarded it to the 4th respondent, who passed the impugned order.



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11. This gives rise to two inferences namely, that the application was never given in the year 2010 and was given in the year 2017, which was forwarded to the 4th respondent by the 5th respondent or even if such application had been given in the year 2010, there are no records available in the office of the 5th respondent. The petitioner is only searching for a needle in a haystack. Once the respondents denied that there is no such application, it would be extremely inappropriate to ask them to search that particular application, which the petitioner had given in the year 2010. As also correctly pointed out by the learned Additional Government Pleader for the respondents, the petitioner also should have duly followed up on the application, which he had given in year 2010. It was with respect to his own date of birth and his own entry relating to the date of birth in service records. Some more diligence could have been shown by the petitioner herein. He had not done so. He therefore cannot blame the respondents alone. Let the petitioner rest with his service, which he had rendered for the public as Village Administrative Officer and let the date of birth remain as his school friends knew him and his date of birth namely, 04.06.1959.



WEB COPY 12. With the above observations, this Writ Petition stands dismissed.

No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

08.08.2023

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Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

Speaking order: Yes/No

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Nagapattinam District.

C.V.KARTHIKEYAN,J.

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