



W.P(MD).No.25410 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.25410 of 2023

and

W.M.P(MD).No.21585 of 2023

S.Nagendramani

....Petitioner

Vs

1.The Managing Director
TWAD Board
Chepauk, Chennai 5

2.The Superintendent of Engineer
TWAD Madurai Office
Madurai

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the record pertaining to the impugned order of the second respondent letter Ka.No. 1785/Ko.u.ni.pe/ni.ul/2023 dated 25.08.2023 and quash the same and subsequently directing the respondents to enter the correct date of birth 02.06.1965 in the service register.

For Petitioner : Mr.S.Arunnithy

For Respondents : Mr.B.Vijaykarthikeyan
TWAD Board Standing Counsel



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ORDER

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The present writ petition has been filed by an Executive Engineer of respondent TWAD Board seeking to quash the order dated 25.08.2023 wherein his request for alteration of the date of birth was rejected.

2.The petitioner had joined service of the respondent Board as Technical Assistant on 29.11.2009 and he got promoted as Assistant Engineer in the year 2010. He was further promoted as Assistant Executive Engineer in the year 2019. The petitioner at the time of joining service, he has given his date of birth as 27.05.1964. Therefore, the petitioner about to attain superannuation on 26.05.2024.

3.The petitioner gave a representation to the second respondent on 03.07.2023 requesting him to alter his date of birth from 27.05.1964 to 02.06.1965 in the service register. The petitioner addressed another communication on 19.07.2023 seeking the same relief. The said request was rejected under the impugned order by the second respondent herein on 25.08.2023 on the ground that the petitioner has not submitted his request for alteration of date of birth within a period of five years from the date of joining service. This order is under challenge in the present writ petition.

4.According to the learned counsel for the petitioner, at the time of entering into service, the petitioner's date of birth was incorporated as 27.05.1964 based upon his educational certificate. He traced his date of birth



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from the government register and obtained birth certificate on 07.01.2022. He came to know the correct date of birth belatedly and therefore, there is a delay in making a request to the authorities to alter the date of birth. When the petitioner is relying upon his birth certificate, the authorities ought to have considered the same and ought not to have rejected the same citing Rule 56 of Fundamental Rules.

5.The learned counsel for the petitioner had further submitted that the petitioner has offered proper explanation for approaching the authorities belatedly. Unless the date of birth is altered and correct date of birth is incorporated in the service register, he would be put to great hardship.

6.I have considered the submissions made on the side of the petitioner and perused the material records.

7.Admittedly, the petitioner had joined service in the respondent Board as Technical Assistant in the year 2009. As per Rule 56 of the Tamil Nadu Fundamental Rules, the petitioner has to submit his application for alteration of date of birth within a period of five years from the date of joining service. Admittedly, the present request has been made just 10 months prior to his attainment of superannuation.

8.The Hon'ble Supreme Court in a judgment reported in **(2021) 12 SCC 27 (Karnataka Rural Infrastructure Development Limited Vs. T.P.Nataraja and others)** in Paragraph No.11 has held as follows:



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“11.Considering the aforesaid decisions of this Court the law on change of date of birth can be summarized as under:

(i) application for change of date of birth can only be as per the relevant provisions/regulations applicable;

(ii) even if there is cogent evidence, the same cannot be claimed as a matter of right;

(iii) application can be rejected on the ground of delay and laches also more particularly when it is made at the fag end of service and/or when the employee is about to retire on attaining the age of superannuation.”

9.In the present case, the application for alteration of date of birth has been submitted beyond the period prescribed under the relevant service rules, especially at the fag end of service. Therefore, there are no merits in the writ petition. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.10.2023.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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R.VIJAYAKUMAR, J.

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