



W.P.No.16908 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.02.2024

PRONOUNCED ON : 28.02.2024

CORAM

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.16908 of 2011

M.Singaravelu,

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Petitioner

Vs.

1.The Executive Engineer,
Tamil Nadu Water Supply and Drainage Board,
Maintenance Division,
Gandhi Nagar,
Thiruvannamalai.

2.The Assistant Executive Engineer,
Tamil Nadu Water Supply and Drainage Board,
Maintenance Division,
Gandhi Nagar,
Thiruvannamalai.

3.The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
31, Kamarajar Salai,
Chepauk, Chennai – 600 005.

4.Tamil Nadu Water Supply and Drainage Board,
31, Kamarajar Salai,
Chepauk, Chennai – 600 005
rep. by its Chairman.

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Respondents



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PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records connected with the memo No.6528/Ni(O.Na)/A2/2009 Dated 12-04-2011 passed by the third respondent and subsequent Pro.No.797/Ko.Oyivu/pa.a/2011 Dated 29.04.2011 and Pro.No.ko2/AEE/Maint.Sub Division/Thi.malai/2011 Dated 30.04.2011 passed by the first and second respondents respectively and quash the same and further direct the respondents to permit the petitioner to continue in service till his date of his superannuation on 31.07.2023 with continuity of service and wages for the period from 01.05.2011 onwards and all other attendant monetary benefits thereto.

For Petitioner : Mr. G.P.Arivuchudar
For R1 & R2 : No appearance
For R3 & R4 : Mr.S.Ravindran, Senior Counsel
for Ms.S.Mekala, Standing counsel
for TWAD Board

ORDER

This Writ Petition has been filed to call for the records connected with the memo No.6528/Ni(O.Na)/A2/2009 Dated 12-04-2011 passed by the third respondent and subsequent Pro.No.797/Ko.Oyivu/pa.a/2011 Dated 29.04.2011 and Pro.No.ko2/AEE/Maint.Sub Division/Thi.malai/2011 Dated 30.04.2011 passed by the first and second respondents respectively and quash the same and further direct the respondents to permit the petitioner to continue in service till his date of his superannuation on 31.07.2023 with continuity of service and wages for the period from 01.05.2011 onwards and all other attendant monetary benefits thereto.



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2.The learned counsel for the petitioner submitted that the petitioner was initially appointed as Valve Operator on 27.05.1993 at Rs.60/- per month at Devikapuram Panchayat, Thiruvannamalai District. Later, he was transferred to the control of the first respondent with effect from 17.07.1997. He was allowed to join duty at TWAD Board on 17.07.1997 forenoon on production of the physical fitness and age appearance certificate dated 17.07.1997 issued by the Assistant Surgeon, Government Primary Health Centre, Devikapuram along with his school certificate showing his date of birth as 10.11.1963. As per the proceedings dated 31.10.2006 of the first respondent, his services were brought into the regular time scale of pay.

3.All of a sudden, his salary for the period from 22.10.2008 to 13.02.2009 was withheld by the first respondent without any reason. When he contacted the first respondent, he was informed that a criminal complaint was lodged against him at Chetpet Police Station, Tiruvannamalai District. The first respondent issued a charge memo dated 12.03.2009, framing charges that petitioner produced false age and educational qualification certificates. He submitted his explanation dated 05.05.2009. He filed a writ petition in W.P.No.11679 of 2009, challenging the charge memo dated 12.03.2009. The



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writ petition was allowed with a rider, confirming the respondents' right to issue a fresh charge memo under standing orders applicable to the workman.

Again a charge memo dated 18.08.2010 was issued to him. This is only in continuation of the earlier charge memo dated 12.03.2009. Therefore, petitioner filed Cont.P.No.1268 of 2010 and that was closed based on the order of the first respondent dated 22.09.2010.

4.On 04.01.2011, the General Manager cum Secretary directed the petitioner to submit any other document to prove petitioner's age. Petitioner submitted a letter dated 19.01.2011 with a copy of physical fitness and age appearance certificate dated 17.07.1997. Petitioner's date of birth is 01.07.1963. He would retire only on completion of 60 years i.e., on 30.06.2023. However, the first respondent issued orders on 29.04.2011 permitting the petitioner to retire on 30.04.2011 afternoon. The third respondent issued final orders confirming the petitioner's date of birth as 01.05.1951 without following the provisions of the TWAD Board Service Regulations, 1972, TWAD Board Standing Orders for Workmen, 1998, Orders dated 08.07.2010. In the said circumstances, this writ petition is filed.



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5.It is further submitted by the learned counsel for the petitioner that as per the regulations 52 (iv) of the TWAD Board Service Regulations, 1972, in all doubtful cases of date of birth, the enquiry shall be made by an officer belonging to the Revenue Department not lower in rank than a Revenue Divisional Officer. On receipt of the report of the enquiry, the case shall be submitted to the Tamil Nadu Water Supply and Drainage Board for decision. The decision of the Board shall be final. This procedure was not followed and therefore, retiring the petitioner prematurely on 30.04.2011 is illegal.

6.In reply, the learned counsel for the respondent submitted that the petitioner was allowed to join as a Valve Operator in CWSS on 17.07.1997 and his service was regularized on 01.08.2006. The service register was opened on 07.09.2000 based on the following certificates i.e., (1) Community Certificate, (2) Village Administrative Officer Certificate, (3) Certificate of Physical fitness, (4) School certificates. Mr.M.Venkatesan has given a petition on 16.05.2008 stating that the petitioner has produced bogus school certificate mentioning his date of birth as 10.11.1963 and passing 8th standard. It is further stated that the petitioner's original date of birth is 01.05.1951 and he had studied upto 3rd standard only.



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7. Necessary explanation was called from the petitioner on 17.12.2008, but he has not submitted any reply. Petitioner did not attend the enquiry conducted by the Vigilance Officer, TWAD Board, Head Office Chennai. A complaint was lodged by the first respondent to the Sub Inspector of Police, Chetpet Police Station, Chetpet and to the Deputy Superintendent of Police, Polur. Departmental action was initiated against the petitioner. Petitioner filed W.P.NO.11679 of 2009 challenging the charge memo. In W.P.No.11679 of 2009, this Court quashed the charge memo with a rider that they have liberty to proceed under the standing orders. Again a charge memo dated 18.08.2010 was given, but the petitioner did not give any reply to the charge memo within the time. The Secretary Cum General Manager, TWAD, Head Officer, issued a memo No.6528/E(DA)/A2/2009, dated 06.10.2010, to the petitioner directing him to produce the original certificate regarding the verification of his date of birth. Petitioner did not give any reply and did not turn up for the enquiry. He further submitted that it is evident from the certificate produced by the Headmaster of the Devikapuram Panchayat Union Primary School, petitioner's date of birth is 01.05.1951.



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8. Petitioner was asked to give explanation in the memo dated 12.04.2011, about the certificate issued by the Headmaster of the Devikapuram Panchayat Union Primary School about his date of birth as 01.05.1951. In his reply dated 19.01.2011, petitioner has not disputed the certificate issued by the Headmaster of the school. His response is that he produced the medical and fitness certificate issued by the Assistant Doctor of Devikapuram Primary Health Centre and it shows that his age is 34 years. Therefore, there is no need to change his date of birth. He has not disputed or denied the certificate issued by the Headmaster stating that the petitioner's date of birth is 01.05.1951. When the certificate issued by the Headmaster regarding the date of birth of the petitioner is not disputed, no cause arose for conducting an enquiry by the Revenue Divisional Officer and for the Board to take a decision on that. Based on the concrete evidence with regard to the date of birth of the petitioner as 01.05.1951, he was permitted to retire on 30.04.2011. Therefore, he prayed for dismissal of this petition.

9. Considered the rival submissions and perused the records.



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10. It is seen from the facts narrated above and submissions of the learned counsel for the parties, the issue involved in this case is the date of birth of the petitioner. Petitioner produced a school certificate claiming his date of birth as 10.11.1963 along with fitness and medical certificate issued by the Doctor. It is no doubt that the medical and fitness certificate issued by the Doctor will not conclusively establish the age of a person. When there was a petition received informing that the petitioner has produced bogus school certificate mentioning his date of birth as 10.11.1963, an enquiry was conducted. It seems that the petitioner has not participated in the enquiry conducted by the concerned authority. The Head Master gave a certificate stating that the petitioner's date of birth is 01.05.1951. Petitioner has not produced any supporting evidence to show that he was born on 10.11.1963. Petitioner's birth certificate produced by him claiming that he was born on 10.11.1963 is a self serving document, not supported by any other document. On the other hand, the document produced by the DEO and the Head Master of the school shows that the petitioner was born on 01.05.1951. As rightly pointed out by the learned counsel for the respondent that when answering the memo dated 12.04.2011, in his reply dated 19.01.2011, petitioner has not disputed the certificate issued by the Headmaster of the school. He had only



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stated that as per the Doctor's certificate, he was aged 34 years when he joined duty on 1997. In the light of the unimpeachable evidence available in this case, it is clearly established that the petitioner's real date of birth is 01.05.1951 and therefore, he was rightly superannuated on 30.04.2011.

11.In the said circumstances, the prayer asked for in this Writ Petition cannot be entertained. Therefore, this Writ Petition deserves to be dismissed and accordingly, dismissed.

12.At the conclusion of the hearing, it is submitted by the learned counsel for the petitioner that petitioner was not paid the retirement benefits. If that be the case, the respondents are directed to pay the petitioner, the retirement benefits as per the rules within a period of three months from the date of receipt of a copy of this order.

13.With the above directions, this Writ Petition stands dismissed. Consequently, connected miscellaneous petition if any is closed. No costs.

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Internet: Yes
Index: Yes/No
Speaking/Non speaking order
NCC: Yes/No

28.02.2024



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rep. by its Chairman.



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G.CHANDRASEKHARAN, J.

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Pre-delivery Order in
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