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W.P.No.9506 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.9506 of 2024
and W.M.P.No.10502 of 2024

K.Chandran

.. Petitioner

Versus

1. The Secretary,
Department of School Education,
Government of Tamilnadu,
Fort St. George,
Chennai - 600 009.
2. The Director of Elementary Education,
DPI Complex, College Road,
Chennai - 600 006.
3. District Elementary Education Officer,
Vellore,
Vellore District.
4. Block Education Officer,
Katpadi Taluk,
Vellore District.
5. The Revenue Divisional Officer,
Revenue Divisional Office,
Vellore, Vellore District.
6. The Tahsildar,



W.P.No.9506 of 2024

WEB COPY

Katpadi, Vellore District.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Mandamus by directing the respondents to consider the representation of the petitioner, dated 16.03.2024 and enter the correct date of birth in Service Register within the time stipulated by this Court.

For Petitioner : Mrs.Rampriya Gopalakrishnan

For Respondents : Mrs.S.Mythreye Chandru,
Special Government Pleader,
for RR-1 to 6

ORDER

This Writ Petition is filed with a prayer to consider the representation of the petitioner, dated 16.03.2024 and enter the correct date of birth of the petitioner in his Service Register.

2. It is the case of the petitioner that his date of birth has been wrongly given by his illiterate parents as 05.04.1964, while, the correct date of birth is 20.12.1966. Since he was born in a village, his birth was not reported to the appropriate authorities. However, he has got a horoscope which would show that his date of birth is 20.12.1966.



W.P.No.9506 of 2024

WEB COPY

3. *Ms.Rampriya Gopalakrishnan*, learned Counsel for the petitioner would submit that after entering into service, as required under the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, within a period of five years, the petitioner made a representation. The petitioner has all along been following the same by repeated representations. However, the same is not considered. Now, by the end of this month, the petitioner is sought to be relieved. Therefore, the petitioner has now approached this Court.

4. She would submit that even though the horoscope is not a conclusive proof of evidence, it is an admissible piece of evidence howsoever weak it may be. Had the respondents conducted an enquiry, the petitioner would have produced such other supporting materials also to prove his date of birth. When the petitioner has made an application as per the statute, it is erroneous on the part of the respondents not to have conducted an enquiry and pass orders in time. For the administrative mistake of the respondents, the petitioner cannot be faulted with. Therefore, she would pray that the Writ Petition be allowed.



W.P.No.9506 of 2024

WEB COPY

5. Per *contra*, Mrs. Mythreye Chandru, learned Special Government Pleader for the respondents 1 to 6 would submit that she has got written instructions to the effect that the earlier representations and applications, which are said to have been made, were never made and only the latest representation in the month of March, 2024 alone was received by the respondents which was returned because the same was not made through proper channel. Therefore, in the absence of any application within a period of five years, the petitioner, at the verge of retirement, cannot seek to correct his date of birth.

6. I have considered the rival submissions made on either side and perused the material records of the case.

7. It can be seen that the instant Writ Petition is filed at the verge of the retirement of the petitioner. The petitioner is bound to retire on attaining the age of superannuation by the end of this month i.e., 30.04.2024. Even though the petitioner is said to have given a representation and even assuming that such representation is given within the time, thereafter, the petitioner has not taken any steps. Even condoning



W.P.No.9506 of 2024

WEB COPY

the said conduct, if one looks into the records as produced by the petitioner, the petitioner has not got any other piece of evidence except the horoscope which would be a self-serving document. Even assuming that it is piece of evidence, from the records it can be seen that the petitioner has rightly approached the appropriate authority (Registrar of Births and Deaths) to record his date of birth, belatedly.

8. Even then the petitioner did not take proper proceedings under the *Tamil Nadu Registration of Births and Deaths Act, 1899* to get his date of birth recorded and did not obtain any birth certificate. The petitioner did not also move the Civil Court which would be the competent authority to go into the facts and declare the date of birth. In the absence of any other material even today, the respondents on their own, on the sole basis of the horoscope alone, cannot determine the age and therefore, at this juncture, I do not feel any useful purpose would be served even by directing the respondents to conduct any enquiry.



W.P.No.9506 of 2024

WEB COPY

9. In that view of the matter, finding no merits, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

04.04.2024

Index : yes
Speaking order
Neutral Citation : no
grs

To

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Government of Tamilnadu,
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W.P.No.9506 of 2024

WEB COPY
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WEB COPY



W.P.No.9506 of 2024

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