



WEB COPY



W.A.No.1005 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No.1005 of 2024
and
CMP.No.7146 of 2024

V. Prema

.. Appellant

Versus

1. The Director of School Education
DPI Campus, College Road
Chennai - 600 006
2. The Joint Director of School Education (Personnel)
Directorate of School Education
DPI Campus, College Road
Chennai - 600 006.
3. The Chief Educational Officer
Chennai District
Presidency Government Girls Higher
Secondary School Campus,
Egmore, Chennai - 600 008.
4. The District Educational Officer
Chennai East Educational District
Lady Welligton Campus
Kamarajar Salai
Triplicane, Chennai - 600 005.



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5. The Correspondent,
The Kellett Higher Secondary School,
Triplicane, Chennai - 600 005.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent praying to set aside the order dated 25.02.2021 passed by the learned Judge in WP.No.4152 of 2021.

For Appellant : Mr. G. Sankaran, Senior Advocate
for Mr. S. Nedunchezhiyan

For Respondents : Mr. U.M. Ravichandran
Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

The appellant has filed this intra-court appeal aggrieved by the order dated 25.02.2021, passed by the learned Judge, dismissing the Writ Petition No. 4152 of 2021 filed by her.

2. The appellant has filed the aforesaid Writ Petition to issue a Writ of Mandamus directing the respondents to pass orders for alteration of her date of birth as 04.09.1963 instead of 30.05.1963 in the Service Records following the procedure contemplated under Rule 49 of the Tamil Nadu State and Subordinate Service Rules/Section 59 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, based on the representation dated 28.08.2019 submitted by her, within a time frame to be fixed by this Court.



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3. Before the writ court, it was stated by the appellant that she was the second daughter born to her parents on 04.09.1963 and it was also duly reflected in her birth certificate issued by Ramanathapuram Municipality. However, due to ignorance, at the time of her admission in the school, her parents had furnished her date of birth as 30.05.1963 instead of 04.09.1963 and this was reflected in all her educational testimonials. It was further stated that on 16.06.2011, she was appointed as B.T. Assistant in the fifth respondent school. After her appointment, she came to know that the date of birth entered into her Service Register is incorrect and contrary to the birth certificate issued by the competent authority. Therefore, the appellant submitted a representation dated 28.08.2019 to the respondents, seeking to alter her date of birth as 04.09.1963 in her Service Register instead of 30.05.1963. However, the representation dated 28.08.2019 submitted by her was returned by the third respondent on the ground that within five years of her appointment as B.T. Assistant (Tamil) in the fifth respondent school, she has not submitted the application seeking alteration of date of birth and therefore, it is not in compliance with Section 59 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. According to the appellant, even though she was appointed on 16.06.2011, her service was approved only in the year 2016, after completion of five years of service, in view of litigation pending



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before this Court. Therefore, it was contended that the representation dated 28.08.2019 was submitted within time, but it was returned by the third respondent. In such circumstances, the appellant has filed the writ petition for the relief mentioned supra.

4. The learned Judge, after hearing both sides, observed that in all the educational testimonials, the date of birth of the appellant/writ petitioner is recorded as 30.05.1963 and hence, there is no justification to seek for alteration of the date of birth in the Service records after 57 years of the birth of the appellant. The learned Judge also, placing reliance on the order dated 06.11.2020 passed by this Court in *W.P. (MD) No. 15490 of 2020 (P. Jeyachandran vs. The Director of School Education and 3 others)* held that the date of birth mentioned in the school records alone, has to be taken into account for the purpose of employment and therefore, refused to issue a Mandamus as prayed for by the appellant and dismissed the writ petition vide order dated 25.02.2021. Aggrieved by the said order, the appellant is before this Court with the present appeal.

5. Mr. G. Sankaran, learned Senior counsel appearing for the appellant would contend that the date of birth of the appellant is duly reflected



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in the birth certificate issued by the Ramanathapuram Municipality. Such a certificate was issued by the competent authority after receipt of particulars from the Government Head Quarters Hospital, Ramanathapuram, where the appellant born. However, the respondent authorities failed to consider the same. The learned senior counsel further submitted that the appellant joined as B.T. Assistant in the year 2011 and her appointment was approved only in the year 2016. Therefore, the application submitted by the appellant for alteration of date of birth is well within the period of five years stipulated under Section 59 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. In any event, the learned Judge ought to have directed the respondents to consider the representation dated 28.08.2019 on merits and in accordance with law, instead of dismissing it.

6. However, the learned senior counsel appearing for the appellant ultimately submitted that it would suffice, if the respondent authorities are directed to consider the representation dated 28.08.2019 submitted by the appellant and pass orders, in accordance with law, within a time frame to be stipulated by this court, for which, the learned Special Government Pleader appearing for the respondents has no serious objection.



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7. In view of the limited relief now sought by the learned senior counsel for the appellant, which has not been seriously opposed on the side of the respondents, this court, without expressing any opinion on merits of the case, directs the third respondent to consider the representation dated 28.08.2019 of the appellant and pass appropriate orders thereof, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this judgment.

8. With the above direction, the writ appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J] [M.S.Q., J]

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Index : Yes / No
Internet : Yes / No

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