



W.P.No.11759 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED:14.06.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.11759 of 2024

and

WMP.Nos.12836, 12837, 12838 & 13907 of 2024

T.Vijaya

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Petitioner

Vs.

1.The Principal Secretary to Government
Higher Education Department,
Secretariat,
Chennai 600 009.

2.The Director,
Directorate of Collegiate Education,
577, Anna Salai, Saidapet,
Chennai-600 015.

3.The Additional Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai 600 005.

..

Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking a WRIT OF CERTIORARIFIED MANDAMUS to call for the records of the order passed by 2nd respondent in Na.Ka.No.12398/B3/2014 dated 17.004.2024 and order passed by 3rd respondent in Letter No.Va.Ni.3(3)/549925/2023, dated 25.03.2024 and quash the same as illegal, arbitrary and non-est in law and consequently direct the respondents to alter the Date of Birth of the petitioner as 27.06.1965 in the service records and permit the petitioner to retire from service on 30.06.2025.

For the Petitioner : Mr.Arun Anbumani for
Mr.S.Mohamed Uduman
For Respondents : Mr.R.Kumaravel
Additional Government Pleader

ORDER

The Writ Petition is filed for a Writ of Certiorarified Mandamus challenging the impugned order dated 17.04.2024 whereby the petitioner's request for alteration of her date of birth has been rejected by the respondents.

2. The case of the petitioner is that the petitioner was appointed as a



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Junior Assistant on 04.06.2009. The petitioner's date of birth is 27.06.1965 and the birth certificate to that effect has already been issued by the Registrar of Births and Deaths. But, while entering into her education records, her date of birth was wrongly mentioned as 03.04.1964. Upon joining the service, within the period of five years, the petitioner made an application on 27.02.2014 for alteration of date of birth on records. The third respondent, by letter dated 19.03.2015, called for various particulars regarding the claim of the petitioner. The petitioner furnished the same. Thereafter, the 2nd respondent also forwarded a recommendation dated 12.06.2015 to the 3rd respondent for approval of this application seeking an alteration of the date of birth. Thereafter, in a letter dated 31.08.2015, the third respondent directed the District Collector to submit a detailed report on various queries by examining the Register of Births and Deaths maintained by the Corporation of Chennai and Revenue authorities.

2.1. Accordingly, the District Collector issued an enquiry notice on 20.09.2016, calling upon the petitioner and her siblings to appear for a



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personal enquiry along with education records, birth certificate, and other documents in support of her claim. In the meantime, the third respondent once again sought various particulars and documents. The said details were also furnished by the appointing authority on 21.06.2015. The second respondent has also sought a report from the Commissioner, Corporation of Chennai, in a letter dated 30.01.2015. Thereafter, the District Collector, Chennai, by proceedings dated 21.11.2017 sought a report from CSI Anderson Day Girls' Higher Secondary School, Chennai, with regard to the completion of the school education, and the Headmaster forwarded a report dated 20.11.2017. The Revenue Divisional Officer conducted a field enquiry and personal enquiry with the petitioner's siblings on 03.05.2019 and submitted a report on 15.04.2019. Similarly, the Zonal Welfare Officer, Greater Corporation of Chennai, has forwarded a report dated 03.05.2019 to the Revenue Authorities stating that the petitioner's date of birth has been registered as 27.06.1965 in Registration No. 278 and Volume No. 17 of the Register of Births and Deaths maintained by the Corporation of Chennai.



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2.2. The Tashildar, Purasivakkam, had also submitted a detailed report on 28.04.2023, stating that the petitioner's actual date of birth was 27.06.1965. Finally, the Revenue Divisional Officer once again examined all the reports and concluded that the petitioner's actual date of birth was 27.06.1965 and recommended the petitioner's case for alteration of the date of birth. The petitioner has been making repeated representations and reminders, in spite of which the date of birth was not altered. As per the date of birth originally entered, the petitioner was bound to retire on 30.04.2024. Therefore, just one month before the same, by an impugned order dated 25.03.2024, the request was rejected, hence this Writ Petition.

3. Initially, notice of motion was ordered, and the learned Additional Government Pleader took notice on behalf of the respondents for filing the counter.

4. Today, when the matter came up for hearing, the learned counsel had written instructions in this matter, and the matter was taken up for final hearing on the said basis.



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5. Mr. Arun Anbumani, the learned counsel appearing on behalf of the petitioner, would submit that the alteration of the date of birth has been rejected for two reasons. The first reason mentioned in that is that this Court, in W.P.No.32085 of 2018 in **M.Govindarajan Vs. The State of Tamil Nadu rep. by its Principal Secretary to Government and others**, has directed that the date of birth once entered should not be corrected. He would submit that, on the other hand, it can be seen that no such proposition has been laid down by the said judgment. It was factually rejected in that particular case. In that case, 34 years after entering the service, there was a request on the verge of retirement; therefore, the same was rejected by this Court. The other reason which is mentioned in the impugned order is that the petitioner did not attain five years of age for joining the school in First Standard, and also that the petitioner was only 14 years and 8 months old to take the SSLC examinations on the new date of birth.

6. According to the learned counsel, the same cannot be reasons to reject the claim of the petitioner. As far as primary education is concerned,



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since the school in which the petitioner studied has been closed, It could not be ascertained whether the petitioner would have reached 5 years of age when she joined the I-standard. The same question has been considered by this court in W.P.No.14639 of 2019, and by an order dated 25.07.2022, this Court has already held that such a thing could not be put against the petitioner.

7. Per contra, the learned Additional Government Pleader would submit that, as far as the petitioner's case is concerned, even though the petitioner made an application at an early date, only on the verge of retirement the petitioner is approaching this Court. Therefore, according to him, the judgment in the M.Govindarajan case (*cited supra*) will be applicable. The new date of birth if now altered, the petitioner would not have been eligible to undergo primary school education. The matter has been considered in detail, and the impugned order has been passed. The learned Additional Government Pleader would also rely upon the Division Bench Judgment of the Madurai Bench of this Court in W.A.(MD).No.897/2016 dated 03.01.2024.



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8. I have considered the rival submissions made on either side and perused the materials available on record.

9. Firstly, the reliance made on the judgment of this Court in the M. Govindarajan case (*cited supra*) would not be correct. The said judgment decided that particular case and held that the date of birth cannot be corrected based on the facts of the case. As far as the present case is concerned, there is a rule enabling the respondent corporation that once the employee joins the service within a period of 5 years, an application can be made for alteration of birth. The fact that the petitioner has made an application within 5 years and detailed inquiries have been made on several occasions has been extracted *supra*. Therefore, the reliance placed on the said ruling in the impugned order is incorrect. As far as the citation cited by the learned Additional Government Pleader in W.P.(MD)No.897/2016 is concerned, that is also a case where it has been held that the request for alteration of date of birth cannot be entertained after 5 years of service.



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10. The only other ground on which the petitioner's case is rejected is that the petitioner may or may not have completed 5 years of age as it is not ascertainable since the school is closed. The said question is no longer *res-integra*, having been decided by this court in the judgment cited supra by the learned counsel for the petitioner. Yet another reason, as if the 8th child is born to the petitioner's parent, is also mentioned as the 7th child is also mentioned in the impugned order, which will not also be a relevant factor to deny the relief. When the petitioner has made an application as per the rules and the authorities on ground have repeatedly inquired into the matter and have come to the conclusion that the correct date of birth of the petitioner is only 27.06.1965 and it has been recommended for alteration of the date of birth, and the application has been duly made as per the rules, merely on the inaction of the respondents to keep the matter pending until the verge of the petitioner's retirement, the petitioner cannot be deprived of the benefit. In any event, the impugned order was passed only on 25.03.2024 and the petitioner immediately approached this Court.

11. Accordingly, the Writ Petition deserves to be allowed, and it is



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allowed on the following terms:

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- (i) The impugned order dated 25.03.2024 bearing Letter No.Va.Ni.3(3)/549925/2023, shall stand quashed. The respondents shall consider the recommendation made by the Revenue Divisional Officer and effect the alteration of the date of birth of the petitioner as 27.06.1965 and pass formal orders thereon within a period of 3 weeks from the date of a copy of this order.
- (ii) Upon passing such orders, it is needless to say that the respondents shall permit the petitioner to rejoin duty until the date of superannuation. It would be open for the respondents to issue such a posting orders to the petitioner considering the facts and circumstances of the case.
- (iii) No costs. Consequently, the connected miscellaneous petitioners are also closed.

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Neutral Citation :Yes



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