In the High Court of Judicature at Madras

Dated : 19.10.2024

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.12401 of 2024
& WMP.No.13527 of 2024

C.Dhayalan, Assistant
Professor, PG & Research
Department of Commerce,
Voorhees College, Vellore-1. ...Petitioner

Vs

1.The Director, Directorate of
Collegiate Education, No.577,
Anna Salai, Chennai-15.

2.The Commissioner of Revenue
Administration, Commissionerate
of Revenue Administration,
Ezhilagam, Chepauk, Chennai-5.

3.The Regional Director of Collegiate
Education, Vellore Region,
Gandhi Nagar, Vellore-6.

4.The Principal, Voorhees College,
Vellore-1 (cause title amended
as per order of this Court dated
30.4.2024 by DBCJ)

5.The Secretary, Voorhees College,
Vellore-1 (R5 impleaded as per
order of this Court dated
30.4.2024 by DBCJ) ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the fifth respondent dated 10.4.2024, quash the same and consequently direct the fifth respondent to alter his date of birth from 01.6.1964 to 04.10.1964.

For Petitioner	:	Mr.M.Umapathi for Mr.C.Mariappan
For R1 to R3	:	Mr.K.Surendran, AGP
For R4 & R5	:	Mr.D.Muthukumar for M/s.Paul & Paul

ORDER

This writ petition has been filed challenging the letter dated 10.4.2024 issued by the fifth respondent and for a consequential direction to the fifth respondent to alter the date of birth of the petitioner from 01.6.1964 to 04.10.1964.

2. Heard the learned counsel appearing on behalf of the petitioner, the learned Additional Government Pleader appearing for respondents 1 to 3 and the learned Standing Counsel appearing on behalf of respondents 4 and 5.

3. The case of the petitioner is as follows :

(i) The petitioner was appointed as Assistant Professor in

Commerce Department of the respondent college namely Voorhees College on 26.2.2016. The appointment of the petitioner was also approved by the Joint Director of Collegiate Education, Vellore Region, Vellore by proceedings dated 24.11.2017. The actual date of birth of the petitioner is 04.10.1964. However, it was entered in the service register as 01.6.1964. In view of the same, the petitioner made an application to the fourth respondent 31.10.2018 requesting to correct the date of birth in the service register. The said application of the petitioner was forwarded by the fourth respondent to the Joint Director of Collegiate Education, Vellore Region, Vellore.

(ii) Pursuant to that, the Revenue Divisional Officer, Tirupathur was appointed to conduct an inquiry and he also submitted a report dated 01.12.2023 to the Additional Commissioner, Revenue Administration, Chepauk, Chennai-5 recommending for the change of date of birth of the petitioner from 01.6.1964 to 04.10.1964. Thereafter, the Additional Commissioner, Revenue Administration, Chepauk, Chennai-5 sent a communication dated 28.2.2024 to the first respondent recommending not to accede to the request made by the petitioner. Based on the said communicaton dated 28.2.2024, the first respondent, by proceedings dated 02.4.2024, rejected the request made by the petitioner and it was communicated to the fifth respondent through the Joint Director of Collegiate Education, Vellore

Region, Vellore. Pursuant to that, by the impugned proceedings dated 10.4.2024, the fifth respondent rejected the request of the petitioner and informed him that he would be relieved from service on the AN of 31.5.2024. It is under these circumstances, the above writ petition came to be filed before this Court.

4. The third respondent filed a counter, in which, the relevant portions read as follows :

> *"6. With regard to the averments made in paragraph 5 of the afidavit, it is submitted that the 1st respondent in his letter R.C.No.11224/G4/2020 dated 01.3.2023, has instructed the 3rd respondent to send the detail format proposal to the 2nd respondent i.e the Commissioner of Revenue Administration, Chepauk, Chennai for conducting an enquiry for the date of birth alteration as per Rule 49-A of the General Rules for the Tamil Nadu State and Subordinate Services. As per the instructionn of the 1st respondent, the 3rd respondent has sent the proposal to the 2nd respondent to change the date of birth of the petitioner.*
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> *7. With regard to the averments made in paragraphs 6 to 8 of the affidavit, it is submitted that the 1st respondent in his letter O.Mu.No.11224/G4/2020 dated 02.4.2024, stating that as per the enquiy of the 2nd respondent (coply enclosed), has perused the report of the Revenue Divisional Officer for proof and rejected the request of the petitioner for the following reasons :*
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> *'According to Government Order No.1296*

(Education Department) dated 16.6.1960, the children's must be 5 years of age as on 31st July at the time of first grade school admission. But, the petitioner had joined the primary school on 18.6.1969 and was admitted to the first class at the appropriate age as per the date of birth sought by the petitioner to be changed on 04.10.1964 which was 4 years 9 months and 27 days at the time of admission to the first class. As per the Government Order, the petitioner does not meet the age requirement for first class school admission as per the above rule. Hence, the petitioner's application may be summarily rejected.'

8. It is submitted that under the above circumstances, the request of the petitioner Dr.C. Dhayalan, who alters his date of birth, has been scrutinized based on Rule 49(a) of the Tamil Nadu State and Subordinate Service Rues and G.O.No.1296 Education Department dated 16.6.1960 (copy enclosed) by the 2nd respondent through the Revenue Divisional Officer, Tirupattur on 01.12.2023. Hence, the order of the 2nd respondent is valid in the eye of law and the request of the individual to alter his date of birth cannot be complied with and rejected. If it is allowed, State Exchequer may leefs."

5. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned order.

6. The short issue that arises for consideration in this writ

petition is as to whether the date of birth of the petitioner must be altered from 01.6.1964 to 04.10.1964 based on the report submitted by the Revenue Divisional Officer, Tirupathur dated 01.12.2023.

7. The petitioner in this case submitted the application for change of date of birth to the fourth respondent within three years from the date of his appointment. Since the application was on time, the Additional Commissioner, Revenue Administration, Chepauk, Chennai-5 appointed the Revenue Divisional Officer, Tirupathur to conduct an inquiry. After a detailed inquiry, the Revenue Divisional Officer, Tirupathur came to the conclusion that the date of birth of the petitioner must be altered from 01.6.1964 to 04.10.1964 and submitted his report dated 01.12.2023 to the Additional Commissioner, Revenue Administration, Chepauk, Chennai-5.

8. In the light of the said report dated 01.12.2023, the Additional Commissioner, Revenue Administration, Chepauk, Chennai-5 ought to have made recommendations to the first respondent to consider the request of the petitioner positivley. However, based on the adverse report of the Additional Commissioner, Revenue Administration, Chepauk, Chennai-5 dated 28.2.2024, the first respondent rejected the request made by the

petitioner and it was communicated to the fifth respondent through the proceedings of the Joint Director of Collegiate Education, Vellore Region, Vellore. Subsequent to that, the fifth respondent issued the impugned communication.

9. It is seen that the Additional Commissioner, Revenue Administration, Chepauk, Chennai-5, through the proceedings dated 28.2.2024, took a decision not to recommend the request made by the petitioner on the specious ground that the petitioner must have been five years of age as on 31st July 1969 i.e at the time of joining the first grade school education, that the petitioner joined the primary school only 18.6.1969, that he entered the first grade when he was 4 years 9 months and 27 days and that herefore, as per the Government Order that was issued in the year 1960, the petitioner did not meet the age requirement for the first grade school education.

10. Three similar writ petitons were dealt with by a learned Single Judge of this Court in W.P.No.14639 of 2019 etc. cases by a common order dated 25.7.2022. Even in that case, the Revenue Divisional Officer concerned had given a report recommending for the change of date of birth whereas the Commissioner of Revenue

Administration, Chepauk, Chennai-5 rejected the request on the very same reasoning.

11. For proper appreciation, the relevant portions in the said common order dated 25.7.2022 are extracted as follows :

> *"34. All these reports of the Revenue Divisional Officer referred to above though had been accepted by the Commissioner of Revenue Administration in the order dated 18.03.2019, a very peculiar reason has been found out by the Commissioner of Revenue Administration stating that, at the time of admitting the petitioner in the Ist Standard, he should have completed the age of 5 years as per the Government Order or the Rule, which was in vogue and at the time of completing the S.S.L.C., he should have completed 16 years of age and if the date of birth of the petitioner i.e., 08.01.1961 is taken into account in both cases he would not have completed the age i.e., maximum age and only if 02.04.1959 is taken into account, then only this could have been possible. Therefore, on that basis, the Commissioner of Revenue Administration had come to the conclusion that 02.04.1959 is the petitioner's date of birth and that alone shall be the correct date of birth and that should be taken into account by rejecting the claim of the petitioner i.e, his date of birth is 08.01.1961.*
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> *35. This Court afraid on the said reason given by the Commissioner of Revenue Administration that, the question posed before the Commissioner of Revenue Administration, assuming that he has got a power to have an enquiry and sent a report to the employer is that, whether the date of birth claimed by the petitioner*

i.e., 08.01.1961 is correct date of birth or not, after conducting a thorough enquiry of the birth place of the petitioner, the Revenue Divisional Officer has given a detailed report and in that report, they did accept the claim made by the petitioner that he born on 08.01.1961 and therefore that certificate issued in this regard by the Sub-Registrar concerned under Section 12 of the Act is a genuine certificate to be accepted.

36. When that being the position, the issue is to be concluded, date of birth as claimed by the petitioner i.e., 08.01.1961 ought to have been accepted and a report to that effect should have been given by the Commissioner of Revenue Administration, instead, the Commissioner of Revenue Administration has gone further and invented a reason, which, in the considered opinion of this Court, is irrelevant to the point in issue, which was referred to him."

12. In the considered view of this Court, the petitioner had submitted his application for change of date of birth on time. A detailed inquiry was conducted by the Revenue Divisional Officer, Tirupathur, who recommended for the change of date of birth of the petitioner through the report dated 01.12.2023. The request made by the petitioner ought to have been considered in the light of this report. Instead, an irrelevant government order of the year 1960 was relied upon by the Additional Commissioner of Revenue Administration, Chepauk, Chennai-5 to reject the claim made by the petitioner.

13. It is quite apparent that the Additional Commissioner, Revenue Administration, Chepauk, Chennai-5 and the first respondent are finding a reason to reject the claim made by the petitioner. A similar action of the Commissioner, Revenue Administration, Chepauk, Chennai-5 was also commented upon by the learned Single Judge of this Court in the said earlier common order passed by this Court dated 25.7.2022.

14. It is worthwhile to make a mention here that the petitioner was relieved from service on 31.5.2024 based on the date of birth that was entered in the service register i.e 01.6.1964. In view of the same, the petitioner will only be entitled to all the attendant benefits if the date of birth is directed to be altered to 04.10.1964.

15. Accordingly, the writ petition is allowed and there shall be a direction to the respondents to alter the date of birth of the petitioner from 01.6.1964 to 04.10.1964 in the service register of the petitioner and the consequential attendant benefits shall be settled in favour of the petitioner within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected WMP is closed.

19.10.2024

RS

N.ANAND VENKATESH,J

RS

To
1.The Director, Directorate of
Collegiate Education, No.577,
Anna Salai, Chennai-15.

2.The Commissioner of Revenue
Administration, Commissionerate
of Revenue Administration,
Ezhilagam, Chepauk, Chennai-5.

3.The Regional Director of Collegiate
Education, Vellore Region,
Gandhi Nagar, Vellore-6.

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