



WEB COPY



W.P.No.6045 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.6045 of 2024

K.CHANDRASEKARAN

.. Petitioner

Vs

1. THE DIRECTOR
PUBLIC HEALTH AND PREVENTIVE MEDICINE
TEYNAMPET DMS COMPOUND
CHENNAI - 600 006.

2. THE DIRECTOR OF SCHOOL EDUCATION
NUNGAMBAKKAM, CHENNAI - 600 006.

.. Respondents

Prayer: Petitions filed under Article 226 of the Constitution of India seeking issuance of a writ of declaration to declare the rules that the Government Servants (Condition of Service) Act 2016 viz., the contractual service rules S. 59(2) that "After a person entered service an application to alter the date of birth as entered in official record shall be entertained only if such an application in made within five years of such entry in to service such an application may be made to an authority competent to make an appointment to the post held by the applicant at the time of his application and shall be disposed in accordance with the procedure laid down in sub-sec 1", S. 59 (3) which says that "Any application received after five years after entry in to service or any application which is not supported by entries in Secondary school leaving Certificate, School, College or University



W.P.No.6045 of 2024

Records, Birth extracts from records of local bodies or military discharge certificate shall be summarily rejected" are ultra vires the Constitution and violative of Art 21, 14, 16 of the Constitution of India and as such null and void and also contrary to the law laid down by the Supreme Court of India in Crl. Appeal No 207/22 arising out of SLP. Crl. No.8423/2019 dated 15.02.2022.

For the Petitioner : Mr.R.Lawrence

For the Respondents : Mr.A.Edwin Prabakar
State Government Pleader

ORDER

(Order of the court was made by the Hon'ble Chief Justice)

The petitioner assails Sections 59(2) and (3) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 as ultra vires.

2. According to learned counsel for the petitioner, the date of birth is recorded as per the say of the parents. The petitioner comes from a lower strata of the society. He is not highly educated. He has passed only IV Standard. The petitioner would be losing three years of his service.



W.P.No.6045 of 2024

3. The contentions of the petitioner now cannot be considered.

The petitioner had challenged the notice issued by the respondents directing the petitioner to retire on 31.8.2023 by filing W.P.No.20031 of 2023. The petitioner sought directions to consider his date of birth entry as contained in Aadhar and PAN as a valid document for the purpose of service record.

4. The learned Single Judge of this court dismissed the writ petition under order dated 7.7.2023 in W.P.No.20031 of 2023. The said order has not been challenged by way of an appeal. The same has become final intra parties.

5. It will not be open now for the petitioner to contend otherwise. The challenge to the provision cannot be considered de hors the right.

6. In appropriate matter, we may consider the challenge to the provisions. However, as far as the petitioner is concerned, the finality has been attached to the order passed by the learned Single



W.P.No.6045 of 2024

Judge dated 7.7.2023.

WEB COPY

The writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, W.M.P.No.6687 of 2024 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

08.03.2024

Index : Yes/No
Neutral Citation : Yes/No
sasi

To

1. THE DIRECTOR
PUBLIC HEALTH AND PREVENTIVE MEDICINE
TEYNAMPET DMS COMPOUND
CHENNAI - 600 006.

2. THE DIRECTOR OF SCHOOL EDUCATION
NUNGAMBAKKAM, CHENNAI - 600 006.



W.P.No.6045 of 2024

THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY,J.

(sasi)

W.P.No.6045 of 2024

08.03.2024