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W.P.No.25720 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.25720 of 2022 and
W.M.P.Nos.24775 & 24777 of 2022

V.Latha

...Petitioner

-Vs-

1. The Commissioner,
Directorate 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,
Presidency Girls Higher Secondary School Campus,
Egmore, Chennai-600 008.
4. The Commissioner of Revenue Administration,
Chepauk, Chennai.600 005.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 2nd Respondent in



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Na.Ka.No.54311/C5/E5/2019 dated 23.06.2022 and to quash the same and consequently directing the Respondents 1 to 3 to carry out the correction of date of birth of petitioner in Service Register as 16.05.1964 instead of 03.05.1962 as per the provisions of Tamilnadu Government Servants (Conditions of Service) Act, 2016 and to allow the petitioner to continue in service in the post of Physical Education Teacher till the date of retirement based on her original date of birth 16.05.1964 with all consequential and other attendant service benefits.

For petitioner : Mr.G.Sankaran

For respondents : Mr.S.Yashwanth,
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the 2nd respondent dated 23.06.2022 thereby rejecting the request made by the petitioner seeking alteration of date of birth.

2. The petitioner had joined in the post of Physical Education Teacher in Government Higher Secondary School, Nandanam, Chennai on 03.07.1998. Her service was regularized from the date of her appointment



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and probation was declared with effect from 02.07.2000. The petitioner was born to her parents Varadhan and Kamala on 16.05.1964 at 02.50p.m. It was duly registered in Health Department of Corporation of Chennai under the provisions of Registration of Births and Deaths Act, 1969. The petitioner's elder brother born on 10.08.1962 at 05.30p.m. His birth was also duly registered in the Health Department of Corporation of Chennai. Further, at the time of her admission to school, her date of birth was wrongly given as 03.05.1962 instead of 16.05.1964 by her parents. Admittedly, her elder brother was born on 10.08.1962 and as such it is not possible for the petitioner that she was born on 03.05.1962. Therefore, the petitioner submitted representation before the Head Master of the said school immediately after completion of her probation period for alteration of her date of birth as required under Rule 49 of Tamilnadu State and Subordinate Service Rules. The Head Master of the said school forwarded the proposal to the 3rd respondent by its communication dated 19.11.2002. Initially, the proposal was returned for certain compliance and the same was resubmitted with compliance on 15.07.2003. While being so, the petitioner was transferred to the Government Higher Secondary School, West Mambalam,



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Chennai. Thereafter, the petitioner again submitted representation for alteration of date of birth in the service register. The last proposal was sent by Head Master of the School on 31.07.2019. On receipt of the same, the Director of School Education forwarded the proposal to the Commissioner of Revenue Administration by its communication dated 11.12.2019. The Revenue Divisional Officer, North Chennai Division, Tondiarpet had conducted enquiry in this regard. Further, particulars were called for from the 2nd respondent and the particulars were duly furnished and also obtained particulars from the school. Though, enquiry was conducted, no orders have been passed for alteration of date of birth.

3. Therefore, the petitioner was constrained to approach this Court in W.P.No.3755 of 2022, in which this Court directed the respondents to pass orders to alter the date of birth of the petitioner in the service register. Thereafter, the 2nd respondent passed order dated 23.06.2022 thereby rejected the claim made by the petitioner for alteration of her date of birth on the ground that as per her original date of birth 16.05.1964, when she joined first standard on 22.06.1967, her age was only 4 years 2 months and



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15 days. As per G.O.Ms.No.1296, Education Department dated 16.06.1960 a child should have completed five years of age on getting admission to first standard.

4. The learned Senior Counsel submitted that the petitioner had studied 6th standard for two years. Only after completion of 15 years as on 31st July, she was permitted to write 10th standard examination. Therefore, it is not the criteria for alteration of date of birth.

5. On perusal of the records revealed that the petitioner produced birth certificate issued by the Corporation of Chennai. Her brother Mr.V.Nagaraju's, date of birth was duly registered and accordingly his date of birth is 10.08.1962. Admittedly, he is elder to the petitioner. After the birth of the petitioner, her date of birth was also registered as she was born on 16.05.1964. On perusal of the Secondary School Leaving Certificate of the petitioner revealed that she completed 10th standard in the month of June 1979 and her date of birth is given as 03.05.1962. Now the request made by the petitioner was rejected on the ground that if the date of birth of the



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petitioner is taken as on 16.05.1964, she did not complete five years at the time of joining in the school. As per G.O.Ms.No.1296 dated 16.06.1960, the students must have completed five years. However, the petitioner completed only 4 years 2 months and 15 days at the time of joining in the school. As per G.O.Ms.No.1296, the students must have completed 15 years as on 31st July while completing 10 standard. On perusal of certificate issued by the school authority where the petitioner studied her 6th standard to 10th standard, revealed that she had studied from 1973-1979 in Chennai Higher Secondary School, New Washermenpet, Chennai. Therefore, she studied for six years for 6th standard to 10th standard, since she had studied 6th standard for two years as instructed by Head Master of Chennai Higher Secondary School, New Washermenpet, Chennai. That apart, the reason stated in the impugned order cannot be sustained for the reason that it is not the criteria for consideration of alteration of date of birth. The petitioner had produced her brother's birth certificate. Admittedly, her elder brother was born on 10.08.1962. It was duly registered with Chennai Corporation. The birth of the petitioner was also duly registered as she was born on 16.05.1964. As per the enquiry report,



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the petitioner was born subsequent to her elder brother. Further, the petitioner also submitted her application for altering the date of birth within a time from the date of her appointment. In fact, she was repeatedly knocking the doors of the respondents and no orders were passed. Therefore, she was constrained to approach this Court and only after direction issued by this Court, the order has been passed whereby they rejected the request made by the petitioner for alteration of her date of birth.

6. Further, G.O.Ms.No.1906, Education Department dated 22.08.1977 ordered that the candidates under 10+2+3 pattern of education should have completed age of 14 years on or before 1st date of the month in the SSLC public examination new pattern to help for the purpose of the said examination. Therefore, the students must have completed 14 years on or before 1st date of month in which SSLC public examination conducted. Therefore, it is not the criteria for altering the date of birth. It is the main criteria only for appearing in 10th standard SSLC examination. Therefore, the impugned order cannot be sustained and liable to be quashed.



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7. Accordingly, order passed by the 2nd respondent in Na.Ka.No.54311/C5/E5/2019 dated 23.06.2022 is quashed. The respondents 1 to 3 are directed to alter the date of birth of the petitioner as 16.05.1964 instead of 03.05.1962 and allow the petitioner to continue in service till the date of her attainment of superannuation based on the date of birth dated 16.05.1964.

8. With the above direction, this Writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

02.02.2024

Index : Yes/No
Internet: Yes/No
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