



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.25183 of 2024
and W.M.P.Nos.27504 & 27505 of 2024

B.Prema

... Petitioner

Vs.

1.Union of India, rep. by

The Director,

Department of Women and Child Development,
Puducherry.

2.The Project Officer,

Department of Women and Child Development,
Puducherry.

3.The Child Development Project Officer,

ICDS Project III,
Puducherry.

4.The Managing Director,

Puducherry Corporation for Development of Woman and
Differently Abled Persons Ltd.,
Puducherry.

... Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order No.2044/ ICDS III/ AKM/2022 dated 03.03.2022 passed by the 3d respondent and quash the same and consequently direct the 3rd respondent to settle the terminal benefits to the petitioner without recovery together with eligible interest.

For Petitioners : Mr.M.Gnanasekar

For Respondent : Mr.R.Sreedhar
Additional Government Pleader (Pondy)
for R1 to R4

ORDER

This writ has been filed challenging the impugned proceedings of the 3rd respondent dated 03.03.2022 and for a consequential direction to the 3rd respondent to settle the terminal benefits to the petitioner without effecting any recovery.

2.The case of the petitioner is that she was appointed in the year 1983 as a Anganwadi Worker. The petitioner was working at Chinnaveerampattinam, Ariyankuppam as Multipurpose Women Development Coordinator. Originally



the date of birth was entered in the Service Register as 26.01.1961. In which case, the petitioner should have retired on 31.01.2021. However, the date of birth was altered as 18.01.1962 and therefore, the petitioner was permitted to retire from service on 31.01.2022. The specific case of the petitioner is that she had nothing to do with the alteration and that she never sought for any extension of her service.

3.The grievance of the petitioner is that the 3rd respondent through the impugned proceedings dated 03.03.2022 has called upon the petitioner to submit her explanation with respect to the alteration of the date of birth made in the Service Record. That apart, the petitioner was also directed to pay a sum of Rs.2,90,560/- with interest at the rate of 12% per annum towards the excess salary that was paid to the petitioner for a period of one year. Aggrieved by the same, the present writ petition has been filed before this Court.

4.The 3rd respondent has filed a counter affidavit. In the counter affidavit, the 3rd respondent has taken a stand that the date of birth of the petitioner was entered in the Service Record as 26.01.1961. The petitioner also did not make



any requisition for correction/alteration of the date of birth. The petitioner submitted a Birth Certificate given by Sub Registrar, Oulgaret Municipality, dated 17.05.2013, where her date of birth was mentioned as 18.01.1962. This was not acted upon. But however, there was manipulation in the Service Record and the date of birth was altered as 18.01.1962. In view of the same, the petitioner managed to work for an extra year and she retired on 31.01.2022.

5.The 3rd respondent has taken a further stand that the petitioner had received a sum of Rs.2,90,560/- for the extra year she worked in view of the manipulation of the Service Record and this amount was sought to be recovered from the petitioner. That apart, the petitioner was also asked to submit her explanation with respect to the alteration of the Service Record. In view of the same, the 3rd respondent has taken a specific stand that there are absolutely no merits in this writ petition and the same is liable to be dismissed by this Court.

6.Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents.



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7.The short issue that arises for consideration in the present writ petition is as to whether the impugned proceedings of the 3rd respondent dated 03.03.2022, is liable to be interfered by this Court.

8.It is not in dispute that the date of birth of the petitioner was entered in the Service Record as 26.01.1961. It is also not in dispute that the petitioner did not submit any application during her period of service seeking for alteration of date of birth. If the petitioner had continued in service with this date of birth, the petitioner would have retired from service on 31.01.2021.

9.The controversy arose when it was found that the date of birth was altered in the Service Register as 18.01.1962. In view of the same, the petitioner had worked for one extra year and she retired from service on 31.01.2022. Immediately after it came to the notice of the 3rd respondent, the impugned proceedings dated 03.03.2022 has been issued.

10.This Court had the advantage of looking into the original records that were submitted by the learned Additional Government Pleader appearing on



behalf of the respondents. On going through the original records, it is seen that the date of birth was originally entered in the Service Record as 26.01.1961. The following documents were also available in the Service Record:

- (a) Transfer Certificate that was issued by the Government High School, Kalapet where the date of birth has been mentioned as 26.01.1961.
- (b) SSLC Mark Sheet issued on 25.05.2002, where the date of birth has been mentioned as 26.01.1961.
- (c) Affidavit dated 11.01.2022, where the petitioner for the first time submits an affidavit twenty days before her retirement wherein, she makes a solemn statement that her correct date of birth is 18.01.1962 and not 26.01.1961. It is not known as to why such an affidavit was submitted by the petitioner twenty days before the date of retirement. This affidavit was not acted upon by anyone and
- (d) Birth Certificate that is said to have been issued by the Oulgaret Municipality, Puducherry on 17.05.2013, mentioning the date of birth of the petitioner as 18.01.1962.



11.It is nobody's case that the affidavit submitted by the petitioner and the Birth Certificate that was relied upon by the petitioner was acted upon and the date of birth of the petitioner was altered in the Service Record. It is not known as to who has altered the Service Record which was under the control of the 3rd respondent.

12.Fingers are pointed out at the petitioner, since the petitioner is the only person who will be benefited by such alteration made in the Service Record. Therefore, by preponderance of probabilities, the 3rd respondent has initiated proceedings against the petitioner for finding out the truth and for recovering the amount that was paid to the petitioner for a period of one year to the tune of Rs.2,90,560/- along with 12% interest.

13.Based on the original records that were placed before this Court, this Court deems it fit to direct the 3rd respondent to immediately give a complaint to the concerned Police with respect to the manipulation that has been done in the Service Record. Obviously, the complaint will be given against unknown accused, since it is not clear as to who made this alteration. If official records are



tampered, it cannot be dealt with kid gloves and it has to be seriously enquired to find out the culprit. Therefore, the 3rd respondent is directed to immediately proceed further and give a complaint and the concerned police shall register an FIR against unknown accused person and shall complete the investigation, within a period of three months thereafter.

14. Insofar as the impugned proceedings issued by the 3rd respondent dated 03.03.2022, the petitioner is directed to submit her explanation, within a period of two weeks from the date of receipt of copy of this order. The 3rd respondent shall proceed further with the enquiry. However, it would be appropriate for the 3rd respondent to await for the completion of the investigation by the police in this regard. This is in view of the fact that two parallel enquiries should not be conducted for the same set of facts. For the present, the recovery of a sum of Rs.2,90,560/- along with 12% interest from the petitioner shall be kept in abeyance. Subject to the final report filed by the police, the 3rd respondent shall proceed further in accordance with law. It goes without saying that the petitioner will be given sufficient opportunity. The release of the terminal benefits can take place only after the completion of the enquiry.



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15. This writ petition is disposed of in the above terms. No Costs.

Consequently, connected miscellaneous petitions are closed.

24.10.2024

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
ssr

To

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2. The Project Officer,
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N. ANAND VENKATESH, J.

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