



W.P.No.19471 of 2017

IN THE HIGH COURT AT JUDICATURE AT MADRAS

DATED: 03.09.2024

CORAM:

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.19471 of 2017

Krishnaveni

...Petitioner

Vs.

The Director,
Department of School Education
Puducherry,
Puducherry State.

...Respondent

Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus , to call for the records made in impugned order No.8711/DSE/ESTT.I/D4/2017 dated 13.07.2017 passed by the respondent herein and quash the same as illegal and direct the respondent to permit the petitioner to continue to work as Multitask Staff (House keeping) in the office of Chief Educational Officer, Karaikal.

For Petitioner : Mr.R.Sankarasubbu

For Respondent : Mr.R.Syed Mustafa

Special Government Pleader, Puducherry



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ORDER

Writ petition is filed challenging the order dated 13.07.2017 rejecting the petitioners request for change of date of birth.

2. The petitioner was initially engaged as part time meals carrier in the Government Primary School, Periapet, Karaikal with effect from 10.12.1998 and later became full time casual labourer on 03.08.2006. The petitioner was finally appointed as multitasking staff (house keeping) on 09.02.2016. According to the petitioner she belongs to SC community. As the petitioner did not undergo schooling, at the time of initial engagement she was not able to produce the correct certificate and gave her date of birth as 20.07.1957. The petitioner subsequently came to understand that the date of birth given was wrong and therefore she gave representation to the respondent on 08.06.2017, requesting to change her date of birth from 20.07.1957 to 20.07.1960, on the ground that her parents had given wrong date of birth while admitting her in school. In support of alteration of date of birth, the petitioner submitted three documents viz., sworn affidavit before Notary public, Karaikal dated



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02.06.2017, copy of the age certificate given by Dr.P.Muthaiyan, M.S.Ortho, IGGGH & PGI, Puducherry on 06.03.2017 and Non-availability certificate by N.Ravi, Commissioner, Neravy Commune Panchayat, Karaikal dated 08.03.2017. The said representation of the petitioner was rejected vide impugned order dated 13.07.2017. Aggrieved by the impugned order the petitioner has filed the present writ petition.

3. The respondent filed counter stating that draft list of full time casual labourer engaged as on 30.09.2006 in all the four regions of Puducherry was published calling for objection, in regard to correction in the name, date of birth, date of engagement etc., vide I.D.No.A.12011/1/2008/DP&AR/GC/U.II, dated 30.06.2009. On due consideration of the objection's received, the final list of full time casual labourer's was published on 25.11.2009 by the Department of Personnel and Administrative Reforms (Personnel Wing), Chief Secretariat, Puducherry. The respondent further submitted that petitioner did not submit her objection and even the objection given by the petitioner, at the time of her



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absorption as multi tasking staff was against Note 6 of Fundamental Rule 56

and the same was therefore returned. The respondent therefore submitted that there were no merits in the writ petition and same deserved to be dismissed.

4. The learned counsel for the petitioner submitted that respondent's were bound to verify the correctness of the date of birth of the petitioner at the time of joining and had they verified the same, the present situation would not have arisen. The learned counsel further submitted that the petitioner submitted the following three documents in support of her request for correction of her date of birth.

1. Affidavit sworn before Thiru. S.Krishnavelu, M.A.B.L. Advocate & Notary, Karaikal, dated 02.06.2017.
2. Copy of the Age Certificate by Dr.P.Muthaiyan, M.S.Ortho, IGGGH & PGI, Puducherry, dated 06.03.2017.
3. Non-availability Certificate by N.Ravi, Commissioner, Neravy Commune Panchayat, Karaikal, dated 08.03.2017.



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The learned counsel submitted that the respondent ought to have considered the documents and corrected the petitioners date of birth as requested.

5. The learned counsel for the respondent on the other hand relying on the counter submitted that the petitioner was given opportunity to correct the date of birth, by filing objections, to the draft list of full time casual labourers engaged as on 30.09.2006, in the four regions of the Union Territory, Puducherry vide I.D.No.A.12011/1/2008/DP&AR/GC/U.II, dated 30.06.2009. The petitioner did not choose to object at that time and so the objections received from others were considered, examined and final draft list was published on 25.11.2009. The petitioner after lapse of 8 years gave representation's dated 08.06.2017 and 21.06.2017, seeking alteration of her date of birth. The learned counsel further submitted that Rule 6 of Fundamental Rule 56, clearly provided that the mistake, if any, in the date of birth should be corrected only within five years of entering into Government service. As the petitioner sought for alteration beyond the period of five years her request was



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rightly rejected.

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6. I have heard the learned counsel's and I have perused the materials placed on record.

7. It is an admitted fact that petitioner was initially engaged as part time meals carrier in the Government Primary School, Periapet, Karaikal with effect from 10.12.1998, and subsequently full time casual labourer on 03.08.2006, and was later appointed as multitasking staff on 09.02.2016. The petitioner admittedly at the time of joining gave her date of birth as 20.07.1957. According to the petitioner her parents who were illiterate had erroneously entered the date of birth while admitting her in school. The petitioner therefore represented to the respondent on 08.06.2017 and 21.06.2017 to correct the date of birth from 20.07.1957 to 20.07.1960 on the basis of the following documents:

1. Affidavit sworn before Thiru. S.Krishnavelu, M.A.B.L. Advocate & Notary, Karaikal, dated 02.06.2017.

2. Copy of the Age Certificate by Dr.P.Muthaiyan, M.S.Ortho, IGGGH &



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PGI, Puducherry, dated 06.03.2017.

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3. Non-availability Certificate by N.Ravi, Commissioner, Neravy

Commune Panchayat, Karaikal, dated 08.03.2017.

The Office Memorandum dated 16.12.2014 issued by the Government of India, Ministry of Personnel, Public Grievances and pensions, Department of Personnel and Training reads as follows:

“Rule 56 of Fundamental Rules states that except as otherwise provided in the rule, every Government servant will retire from service on the afternoon of the last day of the month in which he attains the age of sixty years. Provided that a Government servant whose date of birth is the first of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of sixty years.

II. As per Note 6 below the aforesaid Rule, the date on which a Government servant attains the age of fifty-eight years or sixty years, as the case may be, shall be determined with reference to the date of birth declared by the Government servant at the time of appointment and accepted by the Appropriate Authority on production, as far as possible, of



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confirmatory documentary evidence such as High School or Higher Secondary or Secondary School Certificate or extracts from Birth Register. The date of birth so declared by the Government servant and accepted by the Appropriate Authority shall not be subject to any alteration except as specified in this note. An alteration of date of birth of a Government servant can be made, with the sanction of a Ministry or Department of the Central Government or the Comptroller and Auditor-General in regard to persons serving in the Indian Audit and Accounts Department, or an Administrator of a Union Territory under which the Government servant is serving if-

(a) a request in this regard is made within five years of his entry into Government service;

a. it is clearly established that a genuine bona fide mistake has occurred; and

b. the date of birth so altered would not make him ineligible to appear in any School or University of Union Public Service Commission examination in which he had appeared, or for entry into Government service on the date on which he first appeared at such examination or on the date on which he entered Government service”.



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From a reading of the aforesaid, it is clear that the date of birth declared by the

Government servant and accepted by the appropriate authority shall not be subject to any alteration, except as specified in the note. The alteration, if any, could be made only if, the sanction of Ministry or Department of the Central Government or the Comptroller and Auditor-general and the Administrator, as the case may be, was obtained and that too within period of five years of entering into Government service. It was further mandatory to establish that genuine and bona fide mistake had occurred.

8. It is not necessary to enter into the controversy regarding the relevancy of the documents relied on by the petitioner for correcting the date of birth as in my view, even otherwise, the petitioner's request was not entertainable, as the same was made on the verge of retirement and beyond the period of 5 years from the date of entering into service in violation of Office Memorandum dated 16.12.2014. The petitioner has not given any plausible explanation for not submitting her objections at the time of the draft list which was subsequently



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finalised after considering the objections of affected persons.

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I therefore find no infirmity, illegality or impropriety in the order passed by the respondent. There are no merits in the writ petition and hence it is dismissed. No costs. Consequently connected WMP is closed.

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

dsn



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To
The Director,
Department of School Education
Puducherry,
Puducherry State.



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N.MALA,J.

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