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W.A.No.3568 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2024

CORAM :
THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

W.A.No.3568 of 2024

1. The Principal Secretary to Government
Higher Education Department
Secretariat, Chennai – 600 009.

2. The Director
Directorate of Collegiate Education
577, Anna Salai, Saidapet
Chennai – 600 015.

3. The Additional Commissioner of Revenue Administration
Ezhilagam, Chepauk
Chennai – 600 005.

.. Appellants

Vs.

T.Vijaya

.. Respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent, against
the order passed in W.P.No.11759 of 2024 dated 14.06.2024.

For the Appellants : Mr.J.Ravindran
Additional Advocate General
assisted by Mr.D.Ravichander
Special Government Pleader

JUDGMENT

(Judgment of the Court was made by R.SURESH KUMAR, J.)

This intra-Court appeal has been directed against the order
passed by the Writ Court dated 14.06.2024 in W.P.No.11759 of
2024.



W.A.No.3568 of 2024

WEB COPY

2.1. The respondent writ petitioner was appointed as Junior Assistant on 04.06.2009. Her date of birth is 27.06.1965 and the birth certificate to that effect has already been issued by the Registrar of Births and Deaths. However, while entering into her educational records, the date of birth was wrongly mentioned as 03.04.1964. Thereafter, upon joining services, within a period of five years, as per the Rules in vogue, the writ petitioner made an application on 27.02.2014 for alteration of her date of birth on records.

2.2. The third appellant, by letter dated 19.03.2015, called for various particulars regarding the claim of the writ petitioner and the writ petitioner also furnished the same. The second appellant also forwarded recommendation on 12.06.2015 to the third appellant for approval of her application, seeking alteration of the date of birth. Thereafter, by the letter dated 31.08.2015, the third appellant directed the District Collector to submit a detailed report on various queries by examining the Register of Births and Deaths maintained by the Corporation of Chennai and the Revenue Authorities.



W.A.No.3568 of 2024

2.3. The process of verification went on from the year 2015 to 2019 and thereafter also, the Tahsildar, Purasivakkam, sent a detailed report on 28.04.2023. All these reports have confirmed the actual date of birth of the writ petitioner as 27.06.1965.

2.4. When that being so, the third appellant rejected the plea raised by the writ petitioner by order dated 25.03.2024 when the writ petitioner was on the verge of superannuation based on the date of birth originally entered, i.e., of the year 1964 and he would have to retire on 30.04.2024.

2.5. The impugned order dated 25.03.2024 before the Writ Court mentions that there were eight children born to the parents of the writ petitioner. A female child was born to the parents of the writ petitioner on 08.11.1966, which was recorded as the seventh child. Thereafter, in the year 1969, a male child was born to the parents of the writ petitioner on 25.02.1969. This male child was also recorded as the seventh child. Only by citing this discrepancy in the birth records, where subsequent children were born to the parents of the writ petitioner, the first respondent has come to the conclusion that the date of birth claimed by the writ petitioner cannot be considered positively, through the order impugned before



W.A.No.3568 of 2024

the Writ Court.

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2.6. The first appellant also cited a decision of this Court in the case of ***M.Govindarajan vs. The State of Tamil Nadu***¹, where a paragraph of the said decision of this Court has been quoted in the order impugned before the Writ Court that *"the law with regard to correction of date of birth has been time and again discussed by this Court and held that once the date of birth is entered into service records, as per the educational certificates and accepted by the employee, the same cannot be changed."*

2.7. This judgment has been cited in the impugned order before the Writ Court and this has been distinguished and after having gone through various reports from the Revenue and other Authorities, which reports have been given in support of the actual date of birth of the writ petitioner, the learned Single Judge allowed the writ petition through the impugned order dated 14.06.2024.

3.1. Assailing the order of the learned Single Judge in this intra-Court appeal, *Mr.J.Ravindran*, learned Additional Advocate General would contend that since there has been discrepancy with

¹ W.P.No.32085 of 2018; dated: 03.04.2019.



W.A.No.3568 of 2024

regard to the birth register of the family of the writ petitioner, it cannot be finally concluded that the female child born in the year 1965 to the parents of the writ petitioner is none other than the writ petitioner.

3.2. More over, once the date of birth is entered into the educational records, which has been given as an official date of birth at the time of joining service, the judgment of **M.Govindarajan** (*supra*) would squarely apply to the facts of the present case and therefore, since the learned Single Judge has distinguished the said judgment and has also allowed the writ petition erroneously without considering the issues in proper perspective, the learned Additional Advocate General canvassed the point to interfere with the order which is impugned herein.

4. We have considered the submissions made by the learned Additional Advocate General appearing for the appellants and have gone through the materials placed before this Court.

5.1. First of all, the judgment of **M.Govindarajan** (*supra*) would not apply to the facts of the present case as has been rightly held by the learned Single Judge through the impugned order, that,



W.A.No.3568 of 2024

in that case, an attempt has been made to change the date of birth after thirty four years at the verge of retirement. Wherein, in the case in hand, as per the Rules which enables the employees to make such applications within a period of five years from the date of joining service for alteration of date of birth and within the said time, if an application has been made, as has been made in the case of the present writ petitioner, it does not mean that the date of birth wrongly mentioned in the service register based on the educational records has been accepted by the writ petitioner.

5.2. Therefore, basically, the import of the judgment referred to above would not go into the facts of this case. Therefore, to that extent, the distinguishable aspect adopted by the learned Single Judge through the impugned order is to be accepted.

5.3. Secondly, there has been no dispute that the application has been filed within time. Thereafter, a recommendatory report also has been sent by the immediate employer and when this matter has come to the District Collector, being the Head of the Revenue Department in the District concerned, he had directed the District Revenue Officer / Revenue Divisional Officer concerned of the District to conduct a detailed enquiry and the Revenue Divisional



W.A.No.3568 of 2024

Officer conducted a field enquiry and a personal enquiry with the siblings of the writ petitioner on 03.05.2019 and submitted a report on 15.05.2019. Similarly, the Zonal Welfare Officer of the Greater Chennai Corporation also forwarded a report dated 03.05.2019 to the Revenue Authorities after conducting an enquiry. The Tahsildar, Purasivakkam, has also submitted a detailed report on 28.04.2023.

5.4. All these Authorities of the Revenue Department and the Local Authorities, who are very much concerned with the maintenance of the birth records and also empowered to conduct such enquiry to verify the veracity of the claim made by persons like the writ petitioner with regard to the date of birth, have given reports individually. In all these reports, the contention of the writ petitioner, that her actual date of birth is 27.06.1965, has been accepted. Beyond which, no doubt can arise with regard to the claim that has been made by the writ petitioner regarding the date of birth.

5.5. Therefore, the reason that has been adduced in the order impugned before the Writ Court dated 25.03.2024 is absolutely unrelated to or not relevant to the facts and therefore, the learned Single Judge has rightly rejected this reason and allowed the said



W.A.No.3568 of 2024

writ petition. Also, the learned Single Judge has relied upon yet another judgment of this Court in W.P.No.14639 of 2019 dated 25.07.2022, where the issue relates to initiation of education of the candidate concerned after five years completion, has been held in favour of the petitioner therein. Hence, after the Academic Year 1970-71 alone, the writ petitioner started studying, which is after completion of five years only.

6. Since all these aspects, from every angle, having been considered, the learned Single Judge has given a well considered decision. The reasons now set by the appellants for assailing the order of the Writ Court cannot be countenanced and therefore, this appeal has to fail. Hence, this appeal is liable to be dismissed and accordingly, the present writ appeal stands dismissed. There shall be no order as to costs. Consequently, C.M.P.No.27727 of 2024 is closed.

(R.S.K., J.) (C.S.N, J)
04.12.2024

Neutral Citation:Yes/No

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W.A.No.3568 of 2024

R. SURESH KUMAR, J.
AND
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W.A.No.3568 of 2024

04.12.2024