



W.A(MD)No.897 of 2016

WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 03.01.2024

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE C.KUMARAPPAN**

**W.A(MD)No.897 of 2016
and
C.M.P(MD)No.5389 of 2016**

- 1.Tamil Nadu Electricity Board,
represented by Chairman cum Managing Director,
144, Anna Salai,Chennai – 600 002.
- 2.The Secretary,
Tamil Nadu Generation and Distribution Corporation,
Secretariat Branch, 144, Anna Salai,
Chennai – 600 002.
- 3.The Chief Engineer(Personnel),
Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai – 600 002.

... Appellants/Respondents

.Vs.

P.Sivasamy

....Respondent/Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act praying this Court to set aside the order passed by this Court in W.P(MD)No.2493 of 2016,



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WEB COPY dated 20.05.2016.

For Appellants : Ms.M.Parameswari
Standing Counsel
For Respondent :No appearance

JUDGMENT

DR.G.JAYACHANDRAN,J.
AND
C.KUMARAPPAN,J

This Writ Appeal is arising out of the order passed by the learned Single Judge in W.P(MD)No.2493 of 2016, dated 20.05.2016.

2.The respondent herein was working as Chief Engineer in TANGEDCO and in the fag end of his service,he sought for alteration of his date of birth as 23.04.1959 instead of 19.05.1958.

3.The learned Single Judge, referring to the order passed in W.P(MD)No. 6678 of 2011, had allowed the Writ Petition, stating that he is inclined to set aside the impugned order, dated 21.08.2015,which declined the request of the Writ Petitioner to alter his date of birth and directed the first respondent(TNEB,



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represented by its Chairman and Managing Director) to pass orders on the representation of the Petitioner, dated 18.05.1990.

4.The respondents in the Writ Petition are the appellants herein. The learned counsel for the respondents referring to the provisions of service regulations governing the staffs of Tamil Nadu Electricity Board, submitted that any alteration regarding the date of birth are to be made within five years of joining service, whereas, the Writ Petitioner, namely Sivasamy fabricating the records as if his date of birth is 23.4.1959, has approached the Court with unclean hands and obtained an order to consider his representation, which in fact, not in existence at all. Further, the learned counsel also contended that the judgment in W.P.No.6678 of 2011, which is referred to in the impugned order filed by the person similar to the Writ Petitioner, later came to be withdrawn by the Petitioner in a contempt proceedings, since it was found that the said Petitioner/T.T.Balsamy had not come to the Court with clean hands and with an intention to obtain an order from the Court for alteration of date of birth, had suppressed the facts that he had earlier filed similar Writ Petition before the Principal Bench of this Court and on dismissal of the same, filed Writ Petition



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before the Madurai Bench and got an order and therefore, in the contempt proceedings initiated by T.T.Balsamy, had withdrawn the earlier order passed in W.P.No.6678 of 2011 and dismissed it.

5.This Court has given its anxious consideration to the submission made by the learned counsel for the appellants.

6.This Court finds that the order of the learned Single Judge per se illegal, erroneous and un-sustainable in law. The law regarding the alteration of date of birth of a person in service is well-settled by catena of judgments pronounced by the Honourable Supreme Court. The Writ Petition filed by a person at the fag end of service to alter the date of birth so as to get the extended service, been deprecated by the Honourable Supreme Court several times. The Apex Court is being conscious of the fact that alteration of date of birth in the service records not only will enure unjust enrichment to a person who seeks for alteration of date of birth, but also will cause cascading effect on the service cadre and the seniority list. The persons who are the in-service candidates, expecting promotion and other service benefits, will be the victims of any order altering the date of birth



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after five years of entering the service.

7.In view of the above facts, the Writ Appeal is allowed. There is no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[G.J.,J.] [C.K.,J.]
03.01.2024

NCS :Yes/No
Index : Yes / No
Internet : Yes / No
vsn



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JUDGMENT MADE IN

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