



W.P.(MD)No.16577 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.06.2025**

CORAM:

THE HONOURABLE **MR.JUSTICE VIVEK KUMAR SINGH**

W.P.(MD) No.16577 of 2025

and

W.M.P.(MD) No.12604 of 2025

P.Mary Leema Rose

: Petitioner

Vs.

1. The State of Tamilnadu,
Rep. by its Principal Secretary to Government,
High Education Department,
Secretariat, Fort St. George,
Chennai 600 009.
2. The Additional Chief Secretary/
Commissioner of Revenue Administration,
Ezhilagam,
Chepauk, Chennai 600 005.
3. The Commissioner,
Directorate of College Education,
Saidapet,
Chennai 600 015
4. The Principal,
Government Arts College,
Trichirappalli 620 002.

: Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to impugned proceedings of 3rd respondent in Na.Ka.No.TNDCE/594/D3 dated 29.05.2025 and quash the same and consequently directing the respondents to pass an order for correction of date of birth of the petitioner as 28.06.1966 in service register and allow the petitioner to continue in service or reinstate her as Associate Professor till the retirement based on the original date of birth 28.06.1966 with all consequential and other attendant benefits within a time stipulated by this Court.

For Petitioner : Mr.K.Mahalingam

For Respondents : Mr.T.Amjad Khan

Government Advocate

ORDER

This writ petition has been filed challenging the impugned proceedings issued by the third respondent in Na.Ka.No.TNDCE/594/D3 dated 29.05.2025 with a consequential direction to the respondents to pass an order for correction of date of birth of the petitioner as 28.06.1966 in service register and allow the petitioner to continue in service or reinstate her as 'Associate Professor' till her retirement, based on the original date of birth 28.06.1966 with all consequential and other attendant benefits within a time stipulated by this Court.



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2. Heard the learned counsel for the petitioner and the learned Government Advocate appearing on behalf of the respondents. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

3. The petitioner was working as 'Associate Professor' in the History Department of the fourth respondent college. Since her school records mentioned her date of birth as 08.03.1965, only this date of birth is reflected in the service register. When the petitioner had an occasion to peruse the baptism register maintained by the Church, her date of birth has been registered as 28.06.1966 and it was verified with the municipal birth register also and the authority concerned has also confirmed the same. Only thereafter, the petitioner applied for correction of her date of birth. Since the petitioner's superannuation was due on 31.03.2025, she applied for re-employment and also for correction of her date of birth. However, the same was rejected vide the impugned order dated 29.05.2025. Challenging the same, this writ petition came to be filed.

4. The learned Government Advocate appearing for the respondents submits that the application of the petitioner was rejected on



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the ground that she has not submitted any relevant documents within a period of five years from the date of joining. He also relied upon the judgment of the Hon'ble Supreme Court, in the case of ***Karnataka Rural Infrastructure Development Limited and Another vs. T.P.Nataraja and Others*** in ***Civil Appeal No.5720 & 5721 of 2021***, dated **21.09.2021** and it has been held as follows:-

“9. Even otherwise and assuming that the reasoning given by the High Court for the sake of convenience is accepted in that case also even respondent No.1 – employee was not entitled to any relief or change of date of birth on the ground of delay and laches as the request for change of date of birth was made after lapse of 24 years since he joined the service. At this stage, few decisions of this court on the issue of correction of the date of birth are required to be referred to.

9.1 In the case of Home Deptt. v. R.Kirubakaran (Supra), it is observed and held as under:

“7. An application for correction of the date of birth should not be dealt with by the Tribunal or the High Court keeping in view only the public servant concerned. It need not be pointed out that any such direction for correction of the date of birth of the public servant concerned has a chain reaction, inasmuch as others waiting for years, below him for their respective promotions are affected in this process. Some are likely to suffer irreparable injury, inasmuch as, because of the correction of the date of birth, the officer concerned, continues in office, in some cases for years, within which time many officers who are below him in seniority waiting for their promotion, may lose the promotion for ever...”

9.2 In the case of State of M.P. v. Premalal Shrivastava, (Supra) in paragraph 8 and 12, it is observed and held as under:



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“8. It needs to be emphasised that in matters involving correction of date of birth of a government servant, particularly on the eve of his superannuation or at the fag end of his career, the court or the tribunal has to be circumspect, cautious and careful while issuing direction for correction of date of birth, recorded in the service book at the time of entry into any government service. Unless the court or the tribunal is fully satisfied on the basis of the irrefutable proof relating to his date of birth and that such a claim is made in accordance with the procedure prescribed or as per the consistent procedure adopted by the department concerned, as the case may be, and a real injustice has been caused to the person concerned, the court or the tribunal should be loath to issue a direction for correction of the service book. Time and again this Court has expressed the view that if a government servant makes a request for correction of the recorded date of birth after lapse of a long time of his induction into the service, particularly beyond the time fixed by his employer, he cannot claim, as a matter of right, the correction of his date of birth, even if he has good evidence to establish that the recorded date of birth is clearly erroneous. No court or the tribunal can come to the aid of those who sleep over their rights (see Union of India v. Harnam Singh [(1993) 2 SCC 162 : 1993 SCC (L&S) 375 : (1993) 24 ATC 92]).

12. Be that as it may, in our opinion, the delay of over two decades in applying for the correction of date of birth is ex facie fatal to the case of the respondent, notwithstanding the fact that there was no specific rule or order, framed or made, prescribing the period within which such application could be filed. It is trite that even in such a situation such an application should be filed which can be held to be reasonable. The application filed by the respondent 25 years after his induction into service, by no standards, can be held to be reasonable, more so when not a feeble attempt was made to explain the said delay. There is also no substance in the plea of the respondent that since Rule 84 of the M.P. Financial Code does not prescribe the timelimit within which an application is to be filed, the appellants were dutybound to correct the clerical error in recording of his date of birth in the service book.”



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9.3 In the case of *Life Insurance Corporation of India &*

Others v. R.Basavaraju (Supra), it is observed as under:

“5. 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 in the service record, as per the educational certificates and accepted by the employee, the same cannot be changed. Not only that, this Court has also held that a claim for change in date of birth cannot be entertained at the fag end of retirement”

9.4 In the case of *Bharat Coking Coal Limited and Ors. v. Shyam Kishore Singh (Supra)* of which one of us (Justice A.S. Bopanna) was a party to the bench has observed and held in paragraph 9 & 10 as under:

“9. This Court has consistently held that the request for change of the date of birth in the service records at the fag end of service is not sustainable. The learned Additional Solicitor General has in that regard relied on the decision in the case of State of Maharashtra and Anr. v. Gorakhnath Sitaram Kamble (2010)14 SCC 423 wherein a series of the earlier decisions of this Court were taken note and was held as hereunder:

“16. The learned counsel for the appellant has placed reliance on the judgment of this Court in U.P. Madhyamik Shiksha Parishad v. Raj Kumar Agnihotri [(2005) 11 SCC465: 2006 SCC (L&S) 96]. In this case, this Court has considered a number of judgments of this Court and observed that the grievance as to the date of birth in the service record should not be permitted at the fag end of the service career.

17. In another judgment in State of Uttaranchal v. Pitamber Dutt Semwal [(2005) 11 SCC 477 : 2006 SCC (L&S) 106] relief was denied to the government employee on the ground that he sought correction in the service record after nearly 30 years of service. While setting aside the judgment of the High Court, this Court observed that the High Court ought not to have interfered with the decision after almost three decades.

19. These decisions lead to a different dimension of the case that correction at the fag end would be at the cost of



a large number of employees, therefore, any correction at the fag end must be discouraged by the court. The relevant portion of the judgment in Home Deptt.v. R. Kirubakaran [1994 Supp (1) SCC 155 : 1994 SCC (L&S) 449 : (1994) 26 ATC 828] reads as under: (SCC pp. 158 59, para 7)

“7. An application for correction of the date of birth [by a public servant cannot be entertained at the fag end of his service]. It need not be pointed out that any such direction for correction of the date of birth of the public servant concerned has a chain reaction, inasmuch as others waiting for years, below him for their respective promotions are affected in this process. Some are likely to suffer irreparable injury, inasmuch as, because of the correction of the date of birth, the officer concerned, continues in office, in some cases for years, within which time many officers who are below him in seniority waiting for their promotion, may lose their promotion forever. ... According to us, this is an important aspect, which cannot be lost sight of by the court or the tribunal while examining the grievance of a public servant in respect of correction of his date of birth. As such, unless a clear case on the basis of materials which can be held to be conclusive in nature, is made out by the respondent, the court or the tribunal should not issue a direction, on the basis of materials which make such claim only plausible. Before any such direction is issued, the court or the tribunal must be fully satisfied that there has been real injustice to the person concerned and his claim for correction of date of birth has been made in accordance with the procedure prescribed, and within the time fixed by any rule or order. ... the onus is on the applicant to prove the wrong recording of his date of birth, in his service book.”

“10. This Court in fact has also held that even if there is good evidence to establish that the recorded date of birth is erroneous, the correction cannot be claimed as a matter of right. In that regard, in State of M.P. vs. Premlal Shrivastava, (Supra) it is held as hereunder:

“8. It needs to be emphasised that in matters involving correction of date of birth of a government servant, particularly on the eve of his superannuation or at the fag end of his career, the court or the tribunal has to be circumspect, cautious and careful while issuing direction for correction of date of birth, recorded in the service book at

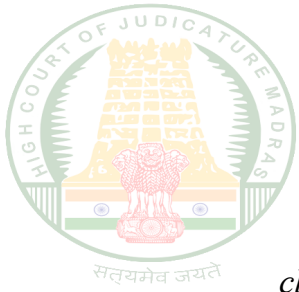


the time of entry into any government service. Unless the court or the tribunal is fully satisfied on the basis of the irrefutable proof relating to his date of birth and that such a claim is made in accordance with the procedure prescribed or as per the consistent procedure adopted by the department concerned, as the case may be, and a real injustice has been caused to the person concerned, the court or the tribunal should be loath to issue a direction for correction of the service book. Time and again this Court has expressed the view that if a government servant makes a request for correction of the recorded date of birth after lapse of a long time of his induction into the service, particularly beyond the time fixed by his employer, he cannot claim, as a matter of right, the correction of his date of birth, even if he has good evidence to establish that the recorded date of birth is clearly erroneous. No court or the tribunal can come to the aid of those who sleepover their rights” (see Union of India v. Harnam Singh [(1993) 2 SCC 162 : 1993 SCC (L&S) 375 : (1993) 24 ATC 92]).

12. Be that as it may, in our opinion, the delay of over two decades in applying for the correction of date of birth is ex facie fatal to the case of the respondent, notwithstanding the fact that there was no specific rule or order, framed or made, prescribing the period within which such application could be filed. It is trite that even in such a situation such an application should be filed which can be held to be reasonable. The application filed by the respondent 25 years after his induction into service, by no standards, can be held to be reasonable, more so when not a feeble attempt was made to explain the said delay. There is also no substance in the plea of the respondent that since Rule 84 of the M.P. Financial Code does not prescribe the timelimit within which an application is to be filed, the appellants were duty-bound to correct the clerical error in recording of his date of birth in the service book.”

10. Considering the aforesaid decisions of this Court the law on change of date of birth can be summarized as under:

- (i) application for change of date of birth can only be as per the relevant provisions/regulations applicable;*
- (ii) even if there is cogent evidence, the same cannot be*



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claimed as a matter of right;

(iii) application can be rejected on the ground of delay and laches also more particularly when it is made at the fag end of service and/or when the employee is about to retire on attaining the age of superannuation.

11. Therefore, applying the law laid down by this court in the aforesaid decisions, the application of the respondent for change of date of birth was liable to be rejected on the ground of delay and laches also and therefore as such respondent employee was not entitled to the decree of declaration and therefore the impugned judgment and order passed by the High Court is unsustainable and not tenable at law."

5. In the light of the aforesaid judgment and also the observations therein, the prayer sought by the petitioner in this writ petition cannot be considered and this writ petition is liable to be dismissed. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

23.06.2025

Index : Yes / No
NCC : Yes / No
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VIVEK KUMAR SINGH, J.

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To:-

1. The Principal Secretary to Government,
High Education Department,
Secretariat, Fort St. George,
Chennai 600 009.
2. The Additional Chief Secretary/
Commissioner of Revenue Administration,
Ezhilagam, Chepauk, Chennai 600 005.
3. The Commissioner,
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