
(2022) 09 TEL CK 0023
In the Telangana High Court
Case No : Writ Petition No. 21765 Of 2018

Ch. Gangamma

APPELLANT

Vs

Secy., Muni.Admin.Dept., State Of T.S.

RESPONDENT

Date of Decision : 06-09-2022

Acts Referred:

Citation : (2022) 09 TEL CK 0023

Hon'ble Judges : B. Vijaysen Reddy, J

Bench : Single Bench

Advocate : K Udaya Sri

Final Decision : Disposed Of

Judgement

1. Heard Smt. K. Udaya Sri, learned counsel for the petitioner, and learned Government Pleader for Municipality, and perused the material on record.

2.1. The case of the petitioner (Mrs. Ch. Gangamma) is that she joined as NMR at Narayanpet Municipality as Sweeper on 25.05.1998. She approached the Andhra Pradesh Administrative Tribunal by filing O.A. No.3585 of 2011 for regularisation of her services. In terms of the order passed by the Administrative Tribunal in the said O.A., the Government has accorded permission to the Commissioner and Director of Municipal Administration to regularise her services. Accordingly, G.O.Rt.No.852 dated 25.06.2012 was issued regularising the services of the petitioner.

2.2. While so, the petitioner was issued with Notice No.C1/891/2016 dated 03.08.2016 informing her that she attained the age of superannuation on the afternoon of 31.10.2015. She was instructed to submit service pension papers in 5 sets for onward transmission to A.G.A.P., Hyderabad. Thereafter, letter dated 23.08.2016, the Commissioner, Municipality, Narayanpet was addressed to the Commissioner and Director of Municipal Administration stating that while scrutinising records for submitting proposals for regularisation and declaration of probation of the individual (petitioner), bona fide certificate submitted by her at

the time of her appointment attracted attention, wherein her date of birth is shown as 17.10.1955, but the same has been recorded in her service book as 01.07.1970.

2.3. It was further stated in the letter dated 23.08.2016 that due to discrepancy with regard to date of birth in bona fide certificate issued by the Head Master, Government High School, Narayanpet, in contrast with the date of birth in her service register, the Commissioner has addressed a fresh letter to the Gazetted Head Master, Government High School, Narayanpet with a request to confirm the petitioner's date of birth. After due verification of records, the Gazetted Head Master has confirmed date of birth of the petitioner viz., Smt. Gangamma as 17.10.1955 and issued a fresh bona fide certificate. The Head Master also informed that the incumbent has appeared and passed S.S.C. examination in April 1972 with Registration No.161300. The Commissioner has directed the incumbent to produce her S.S.C. pass certificate for verification and to ascertain date of birth of the individual. However, the petitioner has stated that she does not possess S.S.C. certificate and based on the bona fide certificate issued by the Commissioner, her retirement was effected on 31.10.2015.

3.1. It is contended by the learned counsel for the petitioner that the proceedings dated 03.08.2016 including the letter dated 23.08.2016 issued by the respondent is wholly illegal, arbitrary and in violation of principles of natural justice.

3.2. Representation dated 26.09.2016 was submitted by the petitioner to respondent No.2 - the Commissioner and Director of Municipal Administration, Telangana State, Hyderabad, stating that initially she was appointed as NMR at Narayanpet Municipality and subsequently her services were regularised. Her date of birth is 01.07.1970 and the same is recorded in her service register. The proceedings of respondent No.2 showing her date of birth as 17.10.1955 is wholly arbitrary. The S.S.C. Certificate alleged to have issued by the Gazetted Head Master, Government High School, Narayanpet, and the bona fide certificate cannot be conclusive proof as the same do not belong to the petitioner but pertain to one K. Gangamma who is not the petitioner but a different person. The said K. Gangamma is daughter one Siddi Lingappa, her date of birth is 07.10.1955 and she studied in Kannada Medium and her mother tongue is Kannada, whereas the petitioner's mother tongue is Telugu and she never had any education in that Government School.

3.3. In the counter filed by respondent No.3, it is contended that the petitioner was appointed as NMR on daily wages by the Chairperson, Municipal Council, Narayanpet, by the proceedings No.728/88/A1 dated 20.08.1988. The services of the petitioner were regularised by the proceedings in Roc. No.A/1448/2012 dated 05.07.2012. The respondents through proceedings dated 03.08.2016 informed the petitioner about her superannuation and her date of birth as 17.10.1955 as per the records of the office. The petitioner has successfully recorded her date of birth as 01.07.29170 instead of 17.10.1955 in the service book with a bad

intention. Furthermore, there is no signature of the staff concerned. It is a suspicious document which was prepared by the petitioner. The petitioner changed her date of birth in her service register and later took signatures on it from a previous officer. The writings on the service register are not related to the office staff concerned. The bona fide certificate and transfer certificate (Admission No.1951) from Government High School, Narayanpet, belonging to the petitioner clearly revealed that her date of birth as 17.10.1955. Bona fide certificate submitted by the petitioner at the time of joining the office also shows her date of birth as 17.10.1955. Retirement of the petitioner was effected on 31.10.2015. The childhood educational certificates denote name of the father but not the husband name and this fact was kept in dark by the petitioner.

4. By relying on the judgment of the Apex Court in *Sarjoo Prasad v. General Manager* (1981) 3 SCC 544, the learned counsel for the petitioner has submitted that enquiry ought to have been conducted by the respondents by giving opportunity of hearing and they cannot unilaterally alter the age and the same is in violation of principles of natural justice.

5. In the considered opinion of this Court, reasonable opportunity was not given to the petitioner before her date of birth was altered in the service register. In view of the disputed questions of facts and doubt about the genuineness of transfer and bona fide certificates produced by the petitioner and allegations that the petitioner has clandestinely changed her date of birth by colluding with the previous office staff, this Court is not inclined to go into the merits of the case. It needs to be noted that the difference of age is about 15 years, going by the alleged date of birth claimed by the petitioner and respondent No.3 - employer.

6. In the circumstances, it would suffice, if directions are issued to the respondents to conduct necessary enquiry for the purpose of ascertaining actual date of birth of the petitioner. Having noticed that there is huge difference of 15 years comparing the alleged date of birth 01.07.1970 (as claimed by the petitioner) and 17.10.1955 (as claimed by respondent No.3), it is desirable that the petitioner is referred to medical examination to find her approximate age, in case, her actual age cannot be determined in the enquiry.

7. In the light of the above observations, the impugned Notice No.C1/891/2016 dated 03.08.2016 including the Letter in Rc.No.C1/891/2016 dated 23.08.2016 are set aside. Accordingly, the writ petition is disposed of directing the petitioner to submit fresh representation to respondent No.3 within a period of three (3) weeks from the date of receipt of a copy of this order with all relevant documents in proof of her contention that her date of birth is 01.07.1970 and not 17.10.1955. On receipt of such representation, respondent No.3 shall conduct enquiry and pass orders in accordance with law within a period of six (6) weeks thereof; in its discretion the respondents may refer the petitioner to the competent authority / hospital / laboratory for determination of her approximate age. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition stand closed.