
(2009) 08 MAD CK 0280
In the Madras High Court
Case No : Writ Appeal No. 854 of 2009

S. Damodaran

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 07-08-2009

Acts Referred:

Tamil Nadu State and Subordinate Services Rules, 1955 — Rule 49

Citation : (2009) 08 MAD CK 0280

Hon'ble Judges : S.J. Mukhopadhaya, J;Raja Elango, J

Bench : Division Bench

Advocate : A.L. Somayaji, S.C. for S.T.S. Murthi, for the Appellant; D. Sreenivasan, A.G.P., for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—An application for alteration of date of birth having rejected, the appellant preferred a writ petition, which was also dismissed by the impugned order dated 28.4.2009 on the ground that the said application was much belated, vide more than five years of entry into service. It appears that the appellant was appointed in the service of the State in the year 1974. Interestingly, the father of the appellant was impleaded as a defendant in a suit preferred by the appellant (O.S. No. 1539 of 1978). The Union Public Service Commission was impleaded as third defendant and was given up by the appellant. The State Government, impleaded as defendants 4 and 5, remained exparte. On the basis of the statement of the father, a decree was passed on 20.2.1979 declaring the date of birth of the petitioner as 8.1.1953 and not 15.6.1951. Except a mere declaration, no other relief was granted to the appellant in the said suit.

2. The representation of the appellant dated 19.12.1990 seeking alteration of the entry relating to his date of birth in his service record was rejected summarily on 17.9.2001 in terms of Rule 49(b) of the General Rules for Tamil Nadu State and Subordinate Services on the ground that the application was not presented

within five years of entry into service.

3. Before this Court, a plea was taken by the learned Counsel for the appellant that the appellant preferred a representation as back as on 4.9.1979, which is well within five years from the date of entry into service. This Court, directed the respondents to produce the original records which has been produced. The records have also been perused by the learned Counsel for the appellant. From the records, it appears that the first representation was filed by the appellant on 19.12.1990 for change of date of birth. In the said letter, it was mentioned that he applied for change of date of birth on 4.9.1979. A reminder was also given on 27.12.1990. Further, it appears that the respondents, having received such letter, requested the appellant to furnish evidence to show that he had made request to the Public Works Department on 4.9.1979. Reminders were also given to the appellant including the reminder dated 30.6.1998. But the appellant failed to produce any evidence to show that he represented on 4.7.1979.

4. Apart from the above said fact, it has been brought to the notice that the appellant had now retired from service and he has preferred the writ petition in April 2009, just two months prior to his retirement, viz. June 2009.

5. In the aforesaid background, we find that no case is made out to interfere with the order passed by the learned single Judge. Accordingly, the writ appeal is dismissed. However, there shall be no order as to costs. Consequently, M.P. No. 1 of 2009 is also dismissed.