



2025:KER:18665

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

WEDNESDAY, THE 5TH DAY OF MARCH 2025 / 14TH PHALGUNA, 1946

WP(C) NO. 39165 OF 2023

PETITIONER:

**SHAREEF.T.E
AGED 40 YEARS
S/O. EBRAHIM T.A,
WORKING AS HSST ECONOMICS,
SIR SYED HSS, KARIMBAM, THALIPARAMBA,
KANNUR DISRTICT, RESIDING AT THECHIYODAN HOUSE,
MAMPOIL, CHUNGATHARA P.O, MALAPPURAM DISTRICT,
PIN - 679334**

**BY ADVS.
ANOOP.V.NAIR
TANOOSHA PAUL
ROHITH C.
AVANTHIKA R.**

RESPONDENTS:

- 1 THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001**
- 2 THE DIRECTOR OF GENERAL EDUCATION
DIRECTORATE OF GENERAL EDUCATION,
THIRUVANANTHAPURAM, PIN - 695014**



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- 3 REGIONAL DEPUTY DIRECTOR
HIGHER SECONDARY EDUCATION,
REGIONAL OFFICE, KOZHIKODE DISTRICT,
PIN - 673004
- 4 ADDITIONAL DIRECTOR OF GENERAL EDUCATION
DIRECTORATE OF GENERAL EDUCATION,
THIRUVANANTHAPURAM DISTRICT, PIN - 695014
- 5 THE MANAGER
SIR SYED HSS, KARIMBAM, THALIPARAMBA,
KANNUR DISTRICT, PIN - 670142

BY ADV.

SRI. V. VENUGOPAL, SENIOR GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 05.03.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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JUDGMENT

Dated this the 5th day of March, 2025

The petitioner, who is working as HSST (Economics) in the 5th respondent's School, has filed this writ petition seeking to quash Ext.P12 and to direct the 2nd respondent to reconsider Ext.P7 application considering the date of joining of the petitioner as 03.06.2013 as on the date of submitting the application and to make necessary changes in the Date of Birth in the Service Book and service records.

2. The petitioner states that the petitioner's Date of Birth recorded in the official documents was 20.04.1982. Actually, the petitioner's Date of Birth is 05.03.1983. Finding that the actual Date of Birth varies from the official records, the petitioner submitted application for correction of Date of Birth in the SSLC Book. The correction was carried out in SSLC Book as per Ext.P6.



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3. The petitioner joined service as HSST on 11.03.2013. However, the appointment of the petitioner was approved as per Ext.P1 order dated 02.09.2013, with effect from 03.06.2013. The petitioner submits that there is a five year limitation period for correcting the Date of Birth in service records. The petitioner submitted Ext.P7 application dated 02.06.2018 within five years from 03.06.2013, which is the date of approval of the appointment of the petitioner.

4. The petitioner would submit that correction of Date of Birth is governed by Ext.P8 Government Order dated 30.12.1991. The Government Order provides that applications for correction of Date of Birth in the case of Government employees shall be made within five years of one's entry in service. The petitioner being an Aided School employee, the petitioner's entry in service should be treated as the date with effect from which the appointment is approved. If that be so, the petitioner's Ext.P7 application is within five year period.



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5. Government Pleader entered appearance and resisted the writ petition. The Government Pleader pointed out that subsequent to Ext.P7 application, the petitioner obtained Ext.P4 order from the Regional Deputy Director of Education correcting the date of approval of the petitioner's appointment as 11.03.2013, which is the actual date of joining service. The petitioner has not disclosed this material fact in the writ petition.

6. The Government Pleader further pointed out that the petitioner had earlier approached this Court filing W.P.(C) No.8292/2021. The said writ petition was also filed subsequent to the issuance of Ext.P4. The petitioner did not disclose the facts in the said writ petition also. W.P.(C) No.8292/2021 was disposed of setting aside Ext.P5 order and directing the 2nd respondent to reconsider the matter.

7. The judgment was taken up in appeal by the State, filing WA No.1136/2023. The Division Bench of this



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Court upheld the judgment of the learned Single Judge. The petitioner thereafter filed Con. Case (C) No.1176/2023. In the contempt proceedings, as can be seen from Ext.P13, this Court noted that while rendering the judgment, the Division Bench proceeded on the basis that the approval of appointment of the petitioner was with effect from 03.06.2013. Neither the petitioner nor the Government Pleader had brought this aspect to the notice of the Court. Accordingly, the writ appeal was restored to file.

8. The State filed RP No.109/2024 before this Court. This Court noted that the writ petitioner had a duty to disclose all these relevant aspects that certainly had a bearing in the adjudication. Accordingly, the writ appeal was restored. The writ appeal was finally disposed of as per judgment dated 03.09.2024 granting liberty to the writ petitioner to raise all plausible pleas in the pending W.P.(C) No.39165/2023.



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9. The argument of the petitioner is that initially his appointment as HSST was approved with effect from 03.06.2013. The petitioner had to file application for correction of Date of Birth in Service Records within a period of five years from the date of appointment. The petitioner filed Ext.P7 application for correction of Service Records on 02.06.2018, which is within five years. Therefore, his application cannot be rejected as time barred.

10. In this regard, I find that after submitting Ext.P7 application, the petitioner has got his appointment approval antedated as per Ext.P4 order dated 04.08.2018 of the Regional Deputy Director (in-Charge). Therefore, after Ext.P4, the date of approval of appointment of the petitioner is 11.03.2013, which makes Ext.P7 application for Date of Birth correction, beyond the prescribed five year period.

11. The counsel for the petitioner would urge that on 02.06.2018, when the application was made, the



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approval date was 03.06.2013. The period of five years should be calculated with respect to the approval date as officially recognised, as on the date of application.

12. I cannot agree to the said proposition. The petitioner does not have any vested legal right to get his Date of Birth corrected, though there are executive orders permitting to make applications for Date of Birth correction. Therefore, the period of five years should be computed based on the fact situations as they stand on the date of consideration of the application. In this case, the antedating of approval is at the volition of the petitioner himself.

In view of the afore facts, the writ petition is dismissed.

Sd/-
N.NAGARESH
JUDGE

spk



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APPENDIX OF WP(C) 39165/2023

PETITIONER EXHIBITS

- | | |
|-------------------|--|
| Exhibit P1 | TRUE COPY OF THE ORDER NO A4/3628(3)/13/KD IS DATED 02.09.2013 APPROVING THE APPOINTMENT OF THE PETITIONER FROM 03.06.2013 ISSUED BY THE 3RD RESPONDENT |
| Exhibit P2 | TRUE COPY OF THE JUDGMENT DATED 01.06.2015 IN W.P(C) NO 7502/2014 OF THIS HON'BLE COURT |
| Exhibit P3 | TRUE COPY OF THE JUDGMENT IN W. A NO 1350/2016 OF THIS HON'BLE COURT |
| Exhibit P4 | TRUE COPY OF THE ORDER NO A8/4978/18/KDIS DATED 04.08.2018 |
| Exhibit P5 | THE TRUE COPY OF THE REPRESENTATION DATED 03.11.2017 SUBMITTED BY THE PETITIONER, FORWARDED THROUGH PRINCIPAL OF THE SCHOOL |
| Exhibit P6 | THE TRUE COPY OF THE RELEVANT PAGE OF THE SSLC BOOK OF THE PETITIONER |
| Exhibit P7 | TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER THROUGH PROPER CHANNEL DATED 02.06.2018 |
| Exhibit P8 | TRUE COPY OF THE G.O.(P) NO. 45/91/P&ARD ISSUED BY THE P&ARD DEPARTMENT DATED 30.12.1991 |
| Exhibit P9 | THE TRUE COPY OF THE REJECTION ORDER PASSED BY 2ND RESPONDENT VIDE ORDER NO. A.C.D.A1/124400/2018/HSE DATED |



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24.06.2020

Exhibit P10 **TRUE COPY OF THE JUDGMENT DATED
21.07.2022 IN W. P.(C). NO. 8292/2021**

Exhibit P11 **THE TRUE COPY OF THE JUDGMENT IN W. A.
NO. 1136/2023 DATED 05.07.2023**

Exhibit P12 **TRUE COPY OF THE ORDER NO
ACD.B4/228697/2022/HSE DATED
18.08.2023 ISSUED BY THE 2ND
RESPONDENT**

Exhibit P13 **TRUE COPY OF THE ORDER DATED
13.11.2023 IN CON. CASE NO 1176/2023**