

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.754 of 2023

1. **Sadhan Paul,**
S/o-Nibaran Chandra Paul
R/o- Roy Colony, Amtali,
P.S. & P.O.-Amtali, Pin – 799130

.....Petitioner(s).

Versus

1. **The State of Tripura,**
(to be represented by) The Secretary, Department of Industries &
Commerce, Government of Tripura, New Secretariat Complex,
Kunjaban, Agartala, West Tripura, Pin – 799010.
2. **The Director of Industries & Commerce,**
Directorate of Industries & Commerce, Khejurbagan,
Agartala, West Tripura, Pin – 799010.
3. **Tripura Jute Mills Limited (A Govt. of Tripura undertaking)**
(To be represented by) The Managing Director,
Tripura Jute Mills Limited, Hapania, Arundhuti Nagar,
PO- ONGC, Agartala, Tripura Pin - 799014
4. **The Managing Director,**
Tripura Jute Mills Limited, Hapania, Arundhuti Nagar,
PO – ONGC, Agartala, Tripura, Pin – 799014.

.....Respondent(s).

For Petitioner(s)	:	Mr. P. Roy Barman, Senior Advocate.
	:	Mr. D. Paul, Adv.
For Respondent(s)	:	Mr. S. Chakraborti, Adv. General.
	:	Mr. K. De, Addl. G.A.
	:	Mr. P. Gautam, Adv.

Date of Hearing and

delivery of Judgment & Order : **17th February, 2025**

Whether fit for reporting : **Yes**

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HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER (ORAL)

Heard Mr. P. Roy Barman, learned senior counsel appearing for the petitioner and also heard Mr. K. De, learned Addl. G.A. appearing for the State-respondent nos.1 & 2 as well as Mr. P. Gautam, learned counsel appearing for the respondent nos.3 & 4.

[2] The case of the petitioner in brief is that he was engaged as worker in Tripura Jute Mills Limited on 04.01.1985 and at the time of joining in the service, he filled up his personal datasheet by mentioning his date of birth to be 15.01.1962, but he could not produce any document in support of his date of birth and, therefore, as per Clause 23 of the Standing Order of Tripura Jute Mills Limited (*Annexure-1* of the Writ Petition) he was referred to the Standing Medical Board, GBP Hospital, Agartala along with some other employees of the Jute Mills Limited for age determination and the Standing Medical Board vide their report dated 02.03.2002 determined the age of the present petitioner to be 37 years on that day and thereafter the petitioner also took loan from the State Bank of India, Amtali Branch and in the 'Employer's Certificate for Applicant/Guarantor' as counter signed by the DDO of the respondent nos.3 & 4 in respect of said loan (*Annexure-4* of the Writ Petition), his date of birth was also mentioned to be 02.03.1965 showing his date of retirement to be 31.03.2025 which co-relates with the age as determined by said Medical Board.

[3] But suddenly he received a letter dated 30.03.2022 from the Managing Director of Tripura Jute Mills Limited (*Annexure-5* of the Writ Petition) as impugned herein mentioning that on scrutiny of dossier of the petitioner as was authenticated by the petitioner himself at the time of entry in the service, it was

detected that his date of retirement was 31.01.2022, but, despite the same, by mistake he continued to work and, therefore, it was ordered that the petitioner would be deemed to have retired from the service w.e.f. 31.01.2022. Then the petitioner filed one representation dated 26.05.2022 (*Annexure-6* of the Writ Petition) to the Managing Director for correction of his date of birth as 02.03.1965, but getting no response in respect of said representation, he filed WP(C) No.530 of 2022 which was disposed of by the coordinate bench of this Court on 25.04.2023 with a direction to the present respondents to consider and dispose of his said representation dated 26.05.2022 within a period of 01(one) month. Thereafter the respondent no.4 disposed of said representation by rejecting the same and result of such disposal was communicated to the petitioner vide letter dated 30.05.2023 (*Annexure-8* of the Writ Petition). Being aggrieved thereby now the petitioner has approached this Court again.

[4] Mr. Roy Barman, learned senior counsel submits that as per the Clause 23 of the Standing Order itself, the opinion of the Medical Board is binding upon the respondents and, therefore, it was the duty of the respondent nos.3 & 4 to correct the date of birth in terms of said opinion of Medical Board and the petitioner himself also produced one School Certificate (*Annexure-3* of the Writ Petition) later on to the said respondents which reflects the date of birth of the petitioner as per the admission register of the school to be 02.03.1965.

[5] Mr. Roy Barman, learned senior counsel further contends that even in the form for taking loan from the SBI, the department itself attested his date of birth to be 02.03.1965, but despite the same, the action of respondent nos.3 & 4 suddenly changing of their own stand and forcing the petitioner to go on retirement on a premature date, is highly illegal and arbitrary.

[6] Finally, Mr. Roy Barman, learned senior counsel urges for reinstatement of the petitioner in the service treating his date of retirement to be 31.03.2025.

[7] Mr. P. Gautam, learned counsel representing the respondent nos.3 & 4 strongly argues that the personal datasheet itself was filled up by the petitioner and was signed by him and, therefore, he cannot deviate from what were mentioned by him in that personal datasheet and, hence, his date of birth is required to be treated as 15.01.1962.

[8] Mr. P. Gautam, learned counsel also refers to one Medical Fitness Certificate dated 18.01.1985 of the petitioner issued by one Medical Officer and submits that as per said certificate also, the age of the petitioner was 23 years as on 18.01.1985 which corroborates with his date of birth as 15.01.1962. Mr. Gautam, learned counsel also refers to one Identity Card issued by the Department to the petitioner which also reflects his date of birth as 15.01.1962. According to Mr. Gautam, learned counsel, the Standing Order itself is sacrosanct in its nature and binding upon both the parties and, therefore, the

decision which was taken by the respondent nos.3 & 4 regarding age of the petitioner was strictly in accordance with such Standing Order and now the petitioner cannot deviate from the same.

[9] Mr. P. Gautam, learned counsel also relies on a decision of another coordinate bench of this Court rendered in **WP(C) No.199 of 2014** titled as **Sri Dahari Ram versus Tripura Jute Mills Limited and Anr.** (decided on 23.03.2016) wherein similar dispute arose regarding the entry of date of birth of one employee of said Jute Mills Limited in the service record and there also the petitioner relied on his one School Certificate and in that perspective, the Court directed the respondents to dispose of the representation of the petitioner within 03(three) months and also to consider the document i.e. the Transfer Certificate as produced by the petitioner in support of his claim of date of birth.

[10] Mr. K. De, learned Addl. G.A. submits that the State has no involvement in the affairs of the parties. However, from the reply as given by the respondent no.4 against the representation of the petitioner, it appears that the School Certificate of the petitioner was not taken in the consideration by the respondent nos.3 & 4 on the ground that once date of birth of the employee was recorded in the Service Book/Datasheet of the employee, it cannot be changed or altered except in case of clerical error.

[11] I have considered the rival contentions of the parties and also have meticulously gone through the documents placed by both the parties. To determine the issue, Clause 23 of the

Standing Order assumes the greater relevance and, therefore, same is extracted hereunder:

"23. DATE OF BIRTH :

(a) The personnel Department of the Company will record the age of every employee at the time of his employment and the entry of age shall be attested by the employee.

(b) Every employee must declare on his first appointment or on being required to do so by the Management, his date of birth according to the Christian Era/Saka Era and produce confirmatory documentary evidence, e.g., Matriculation certificate or Municipal/Police/Birth Certificate, etc. and in the absence thereof, such evidence as may be accepted by the Management. If an employee is unable to produce confirmatory evidence of his age, he shall make a written declaration regarding his age. Such workman will be sent to the Company's Medical Officer for examination and his opinion as to the workman's age shall be binding on the workman.

(c) The date of birth once recorded in the Service book/Sheet of the employee as stated above will not be altered except in the case of clerical error.

(d) If an employee is unable to state his exact date of birth but can state approximately year or year and month of birth the 1st July or the 16th of a month respectively may be treated as the date of birth."

[12] Thus, as per said Standing Order no.23, the employee is required to declare on his first appointment or on being required to do so by the Management, his date of birth and to produce documentary evidence like Matriculation Certificate or Municipal/Police Record or Birth Certificate etc. and in absence of documents, the employee is required to make a written declaration regarding his age and then such employee is required to be sent to the Company's Medical Officer for examination and the opinion of the Medical Officer on age of the concerned employee is binding on him. It is also stipulated that the date of birth once recorded in the Service Book/ Datasheet of the employee as stated above will not be altered except in case of clerical error.

[13] In the instant case, nothing has been produced from either side that any written declaration regarding the date of birth of the petitioner was submitted by him. Rather one personal datasheet was signed by the petitioner in Bengali, but said datasheet was filled up in English language by somebody else wherein his date of birth is mentioned to be '15.01.1962' and even overwriting is also noticed in the figure '1962'. His personal qualification is also not recorded in the datasheet and as such there is nothing in the record to draw any presumption that he is an educated person. From the Standing Medical Board Examination Report (*Annexure-2* of the Writ Petition) it appears that several persons were referred to the said Standing Medical Board, GBP Hospital by the Managing Director of Tripura Jute Mills Limited for age determination and after physical, dental and radiological examination the Medical Board opined on 02.03.2002 about the age of the petitioner to be 37 years as on the said date.

[14] According to Mr. Roy Barman, learned senior counsel, if said opinion of the Medical Board is accepted then it correlates with the date of birth of the petitioner to be 02.03.1965. According to the respondent nos.3 & 4, in the light of said decision of the Medical Board the date of birth of the petitioner was not changed in his datasheet. But it appears that in the employer's certificate issued in favour of the petitioner at the time of taking loan as was attested by his DDO, his date of birth was mentioned as 02.03.1965. No explanation is coming forward from the respondent nos.3 & 4, on what basis said DDO himself attested

such information if they were sticking to the recorded date of birth of the petitioner as 15.01.1962. Basically, the defence of the respondent nos.3 & 4 is based on a Medical Report dated 18.01.1985 issued by a Medical Officer (*Annexure-9* of the Writ Petition) wherein the Medical Officer while issuing Medical Fitness Certificate to the petitioner observed that the age of the petitioner as per his own statement was 23 years on that date and by his appearance also he seemed to be 23 years on that day. But no specific examination was done by said Medical Officer to determine his age.

[15] Therefore, it is found that the respondent nos.3 & 4 themselves did not comply with the provision of Clause 23(b) of the said Standing Order in its true sense. The petitioner however submitted one School Certificate in support of his claim of his date of birth to be 02.03.1965 and while disposing his representation, the respondent no.4 ignored the same on the ground that once the date of birth is recorded in the Service Book/Sheet as per Clause 23(c) (TJM Standing Order), same could not be changed based on such School Certificate. If the stand of respondent nos.3 & 4 being so, there is no explanation as to why in the year 2002 the petitioner was sent for examination by a Medical Board by the Managing Director for his age determination though he entered in service in the year 1985 and once the Medical Board determined his age, why same was not followed by the respondent nos.3 & 4. Clause 23 of the said Standing Order itself envisages that when any declaration is submitted by the employee concerned, he will

be sent to the Company's Medical Officer for his examination for determination of his age, but nothing is produced from the side of the respondent nos.3 & 4 that at the time of entry into the service the petitioner was examined by any Medical Officer particularly with reference to his age determination except said report of the Medical Board dated 02.03.2002. The Medical Certificate as submitted by the respondent nos.3 & 4 is not a document of medical examination of the petitioner with reference to his age determination, rather a fitness certificate. Sub-Clause (C) of Clause 23 of the Standing Order also envisages that date of birth once recorded in the Service Book of the employee as stated above will not be altered except in the case of clerical error, but here in this case, as it appears, no such entry was made regarding the age of the petitioner at the time of his entry into service following the provision of said Clause 23(b) of the Standing Order. Therefore, such reasoning of the respondent nos.3 & 4 are not convincing and acceptable

Considering thus, the writ petition is allowed.

The respondent nos.3 & 4 are directed to make an enquiry about the genuineness of the School Certificate submitted by the petitioner and in case his said document is found to be genuine, then his date of birth will be treated as 02.03.1965 and consequently the respondent nos.3 & 4 will pay the petitioner all the service benefits including his reinstatement into service, if meanwhile his date of retirement based on his claimed age is not

expired, and will make payment of all the dues as arrears. The entire exercise should be done by the respondent nos.3 & 4 within 03(three) months from receipt of copy of this order.

The writ petition is accordingly disposed of.

Pending application(s), if any, shall also stand disposed of.

HIGH COURT OF TRIPURA

JUDGE



SATABDI DUTTA

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