

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.1317 of 2015**

Subhashis Sinha, S/o Late S. Sinha, aged about 54 years, R/o presently working as Accountant, Area Head Quarter, South Eastern Coalfields Limited, Chirmiri Area, District Korea, Chhattisgarh

---- Petitioner**versus**

1. South Eastern Coalfields Ltd. through Chairman cum Managing Director, South Eastern Coalfields Ltd., Seepat Road, Bilaspur, Chhattisgarh
2. Deputy General Manager (Personnel/IR), South Eastern Coalfields Ltd., Seepat Road, District Bilaspur, Chhattisgarh
3. Chief General Manager, South Eastern Coalfields Ltd., Chirmiri Area, P.O. West Chirmiri, District Korea, Chhattisgarh
4. General Manager (P&A), South Eastern Coalfields Ltd., Chirmiri Area, Chirmiri, District Korea, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Chandresh Shrivastava, Advocate
For Respondents/SECL	:	Shri K.K. Shrivastava, Advocate

Hon'ble Shri Navin Sinha, Chief Justice**Order on Board****31/8/2015**

1. Heard Learned Counsel for the Petitioner and the Respondents SECL.
2. Learned Counsel for the Petitioner submits that the Petitioner was appointed on 16.8.1984. On 27.9.1987, the Petitioner was communicated in writing that his date of birth in the service record was 26.7.1959. It was an erroneous entry and his correct date of birth is 10.6.1960. The Petitioner therefore represented in the year 2003 for correction. He did not consider it necessary to make any further representations as he

bonafide believed that his representation had been accepted evident from his date of birth mentioned in his Form PS-3 dealing with particulars of the family dated 4.5.1998, Form PS-4, Nomination Form dated 25.5.1998 as also the Coal Mines Family Pension Scheme. It was next submitted that his date of birth as 10.6.1960 is also to be found in his school certificate dated 26.6.1977 and which had been produced at the time of appointment. The date of birth was wrongly recorded by the authorities as 26.7.1959 despite the same and thus the correction made by them. The Court earlier in Writ Petition (S) No.7453 of 2010, on 12.3.2014, directed the authorities to consider his representation in accordance with Implementation Instruction No.76 of the National Coal Wage Agreement which was designed to specifically deal with issues for correction of date of birth. The impugned order dated 4.2.2015 is arbitrary as it refuses to refer the matter to the Age Determination Committee without any valid justification in violation of Implementation Instruction No.76.

3. Learned Counsel for the Respondents SECL submits that the Petitioner was appointed in 1984. On his own showing, he represented for the first time years later in 2003 and came to this Court 26 years' later in 2010. The Court also noticed that the date of birth 26.7.1959 was mentioned in Form B Register signed by the Petitioner. The Coal Mines Provident Fund Application Form dated 14.3.1985 is also signed by the Petitioner mentioning his date of birth as 26.7.1959. Likewise, the service register of the Petitioner prepared at the time of the entry in service signed by him also bears his date of birth as 26.7.1959. There is no rejoinder to the counter-affidavit. The onus lies on the Petitioner to explain how these entries came to be made and he signed them. If he had produced his school certificate at the time of appointment and the entries in Form B register, to his eyes were incorrect, the burden of proof lies on the Petitioner as to how he signed them without protest.

4. In Writ Appeal No.399 of 2014 (South Eastern Coalfields Limited and others v. Sampat Kumar Chauhan) it was held that a presumption of correctness arises regarding entries in Form B Register relying on (2005) 11 SCC 477 (State of Uttaranchal and others v. Pitamber Dutt Semwal). The issue with regard to more than one document earlier in time mentioning the date of birth duly signed by the Petitioner also fell for consideration in the same including belated claims for correction of date of birth made nearly 25 years' later. Form PS-3 and Form PS-4 were filled by the Petitioner. The contradictions with earlier entries remain unexplained.

5. The Court is not satisfied that Implementation Instruction No.76 is a panacea for all ills regarding a person seeking correction of his date of birth. No sooner that a controversy is sought to be raised it must necessarily be referred to the Age Determination Committee straightaway is not the mandate of Implementation Instruction No. 76. The Court finds no error in the facts of the case in the impugned order dated 4.2.2015 that in view of the earlier entries including Form B Register which the Petitioner has not been able to explain, there was no need to refer the matter to the Age Determination Committee. Additionally, the impugned order rightly recites that if he was higher secondary school examination qualified in 1977 he opted to conceal the same to obtain a job meant for an illiterate person. His age recorded as 25 years on 26.7.1984 was not in a void but based on the medical examination which was also signed by him.

6. All these aspects of the matter have been considered by more than one Division Bench of this Court in Writ Appeal No.399 of 2014 (South Eastern Coalfields Limited and others v. Sampat Kumar Chauhan), Writ Appeal No. 84 of 2014 (Amarjeet Singh v. SECL, through its CMD), Writ Appeal No. 181 of 2014 (Prabhuram v. South Eastern Coalfields Limited

and others) and Writ Appeal No.533 of 2013 (South Eastern Coalfields Limited and others v. Amarnath Kurrey), out of which, in the former two, Special Leave Petition (Civil) No.19199 of 2015 and Special Leave Petition (Civil) No.14686 of 2015 have been dismissed on 20.7.2015 and 14.5.2015, respectively.

7. The Court finds no merit in the writ application. It is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE