

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.2966/2004

Yugal s/o Maniklal Bhattad

...Versus...

Western Coalfields Limited WCL Head Quarters, Nagpur through its Director
(Personnel) and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri J.T. Gilda, Advocate for petitioner
Shri S.C. Mehadia, Advocate for respondent nos.1 and 2

CORAM : B.P. DHARMADHIKARI AND
A.P. BHANGALE, JJ.

DATE : 22.01.2015

P.C.

Heard Advocate Shri Gilda for the petitioner and Advocate Shri Mehadia for respondent nos.1 and 2. Nobody appears for respondent no.3.

After hearing the respective Counsel, we find that the challenge in writ petition is to communication dated 18.6.2004 and a decision of Medical Board as communicated on 10.6.2003. Both these documents found petitioner medically fit and therefore, denied his request to retire him prematurely on medical ground.

The petitioner is due to reach normal age of superannuation and retire accordingly on 31.3.2015. It is in this backdrop that we are passing the present order.

Advocate Shri Gilda has attempted to demonstrate that the medical experts like Civil Surgeons and private diabetologists have after complete examination found the petitioner medically unfit to continue in employment. In this situation, his contention is that the reports of the Medical Board of the respondents need to be properly looked into. He contends that those reports should be discarded.

Advocate Shri Mehadia submits that the petition is pending before this Court since 29.6.2004. The petitioner has continued to work at Nagpur till 2007 and thereafter was transferred to Bilaspur in 2007. He joined there and he is reporting regularly for duties. As such, the alleged disability has never posed a problem for him and hence, the certificate issued by the authorities, competent under the Service Regulations i.e. the Apex Medical Board needs to be accepted.

Advocate Shri Gilda pointed out that because of efforts made by the petitioner to seek premature retirement, he is likely to be served with a charge-sheet.

Advocate Shri Mehadia submits that there is nothing on record to support this contention.

However, facts show that after rejection of request to proceed on retirement, the petitioner has been in a position to function properly at least till today. He is due for retirement on 31.3.2015. In this situation, we are not inclined to consider the arguments of learned Advocate Shri Gilda in depth. The question is whether this Court can comparatively evaluate the finding recorded by the Apex Medical Board under Service Regulations and the opinion given by the private experts.

We leave that question open. If the petitioner suffers any setback or faces any problem before his retirement on account of the alleged malady, it shall be open to him to make appropriate grievance in this respect.

With this liberty and keeping all contentions open, as we find that the challenge is rendered infructuous, we dispose of the writ petition as infructuous. Rule is discharged. No costs.

JUDGE

JUDGE

Wadkar