

HON'BLE SRI JUSTICE R.KANTHA RAO

WRIT PETITION No.22576 of 2015

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking a Writ of Mandamus declaring the proceedings dated 30.10.2010 and consequential proceedings dated 15.05.2014 issued by the respondents, as arbitrary, illegal and to direct the respondents to record the date of birth of the petitioner as 16.03.1966 instead of 24.09.1955 in his service records.

It is agreed by both the learned counsel appearing for the parties that the issue raised in this writ petition is squarely covered by common order, dated 31.03.2015 passed by the learned single Judge of this Court in W.P.No.33343 of 2012 & Batch.

The learned single Judge of this Court in W.P.No.33343 of 2012 & Batch held as follows:

“All I need to add is that the petitioners whoever is on the rolls of the first respondent-company as of today, i.e. 31.03.2015 and who has been proposed to be retired either in the past or in the nearest future shall be subjected to medical examination on specified dates. Each of the petitioners will be given the intimation of the date of their examination and

the time of their examination. A minimum of seven days prior notice in writing will be delivered in that regard. Every petitioner must endeavor fully to be present before the Medical Officer concerned on that day and to the extent necessary, they must cooperate and allow the Medical Officer to reexamine them thoroughly. A copy of the findings of the Medical Officer shall also be placed before the Apex Medical Board for its consideration. If, for any reason, any of the petitioners either owing to illness or any other compelling factor/reason, could not appear before the Medical Officer concerned, on the date and time specified, liberty is granted to such an employee to appear before the personnel/administrative officer concerned and secure an alternative date for examination, on which date, he shall be present before the Medical Officer. In spite of providing such an opportunity, if any of the petitioners fail to avail the same, an adverse inference is liable to be drawn against them that he is averse to have his age properly determined and on that basis, the Apex Medical Board can proceed further.

The date of the proceedings of the Apex Medical Board will also be intimated to the respective petitioners with a minimum of 7 days notice and each of the petitioners is entitled to present his view point before the Apex Medical board and also produce such reliable and clinching material in original (originals of certificates available with them) and in case the petitioners prefer to rely upon any particular register, maintained by the respondent company itself, intimation of which shall be delivered by the respective petitioners

to make available the original thereof for perusal and consideration of the Apex Medical board. The notice/intimation shall be delivered by the respective petitioners of clear three days duration prior to the Apex Medical Board meeting. Let the whole exercise be completed and the appropriate decision of the Apex Board be communicated to the respective petitioners providing them a minimum of 7 days time, in case the Apex Medical Board opinion is adverse to their interests. Till this exercise is completed, and all the petitioners are subjected to this process they shall be continued in service if they are in service as on today i.e. 31.03.2015 and they be paid their monthly wages for this duration as well.

It shall however be open to the respondents to get every certificate produced by the petitioners verified on their own. It is clarified that composition of the Apex Medical Board will be as per the settlement arrived at between the company and the recognized employees union, if one such settlement is available.”

In view of the above, this writ petition is disposed of in terms of the said common order with the direction that the observations made therein shall be read as part of this order. There shall be no order as to costs.

Pending miscellaneous petitions, if any, pending shall stand closed.

JUSTICE R.KANTHA RAO

22nd July, 2015

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