IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

FOR THE STATE OF TELANGANA AND

THE STATE OF ANDHRA PRADESH

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST OF MARCH
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO. 33343 OF 2012 & BATCH

WRIT PETITION NO :33343 of 2012

Between:

Ramashray Singh

S/o Sharamdhani Singh

Occ: Mining Sirdar, EC.No.2652023

R/o Q.No.SA-2, RK-6, Srirampur

Mancherial Mandal, Adilabad District **..... PETITIONER**

AND

The Singareni Collieries Company Ltd.

Represented by its Managing Director

Kothagudem, Khammam District and 3 others

.....RESPONDENTS
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.33343 of 2012	W.P.No.3813 of 2013	W.P.No.40811 of 2014
W.P.No.21948 of 2013	W.P.No.5181 of 2013	W.P.No.528 of 2015
W.P.No.7701 of 2010	W.P.No.5182 of 2013	W.P.No.4728 of 2015
W.P.No.12431 of 2010	W.P.No.5190 of 2013	W.P.No.5597 of 2015
W.P.No.13671 of 2010	W.P.No.5192 of 2013	W.P.No.22842 of 2014
W.P.No.23385 of 2010	W.P.No.5487 of 2013	W.P.No.27099 of 2014
W.P.No.10600 of 2011	W.P.No.10105 of 2013	W.P.No.19864 of 2014
W.P.No.13961 of 2011	W.P.No.11914 of 2013	W.P.No.35932 of 2012
W.P.No.19365 of 2011	W.P.No.15909 of 2013	W.P.No.23956 of 2013
W.P.No.20334 of 2011	W.P.No.18553 of 2013	W.P.No.2238 of 2015
W.P.No.7101 of 2012	W.P.No.18867 of 2013	W.P.No.662 of 2010
W.P.No.8750 of 2012	W.P.No.20437 of 2013	W.P.No.19544 of 2011
W.P.No.10311 of 2012	W.P.No.20454 of 2013	W.P.No.23343 of 2011
W.P.No.10878 of 2012	W.P.No.20455 of 2013	W.P.No.5085 of 2012
W.P.No.16584 of 2012	W.P.No.21217 of 2013	W.P.No.12108 of 2012
W.P.No.19482 of 2012	W.P.No.24957 of 2013	W.P.No.21279 of 2012
W.P.No.21221 of 2012	W.P.No.24962 of 2013	W.P.No.3072 of 2014
W.P.No.22019 of 2012	W.P.No.28247 of 2013	W.P.No.5341 of 2014
W.P.No.25267 of 2012	W.P.No.30659 of 2013	W.P.No.11234 of 2014
W.P.No.26480 of 2012	W.P.No.36814 of 2013	W.P.No.18100 of 2014
W.P.No.26955 of 2012	W.P.No.37471 of 2013	W.P.No.20038 of 2014
W.P.No.27011 of 2012	W.P.No.39189 of 2013	W.P.No.27973 of 2014

W.P.No.33194 of 2012	W.P.No.980 of 2014	W.P.No.28941 of 2014
W.P.No.33656 of 2012	W.P.No.5631 of 2014	
W.P.No.34933 of 2012	W.P.No.8479 of 2014	
W.P.No.36949 of 2012	W.P.No.11173 of 2014	
W.P.No.38776 of 2012	W.P.No.11466 of 2014	
W.P.No.38805 of 2012	W.P.No.15867 of 2014	
W.P.No.39250 of 2012	W.P.No.21884 of 2014	
W.P.No.40342 of 2012	W.P.No.30262 of 2014	
W.P.No.9 of 2013	W.P.No.33683 of 2014	
W.P.No.1183 of 2013	W.P.No.34254 of 2014	
W.P.No.3613 of 2013	W.P.No.35214 of 2014	
W.P.No.3616 of 2013	W.P.No.37362 of 2014	

COMMON ORDER:

In all these cases, the grievance of the writ petitioners is that, without any justifiable cause, the Singareni Collieries Company Limited has abruptly proposed to retire them from service on the premise that all the petitioners have acquired the age of superannuation of 60 years.

Heard learned counsel for the petitioners in extenso. It is contended that the Singareni Collieries Company Limited is one of the biggest employers, as it is a manpower intensive industry. It is also common ground that, all the petitioners have come from socially and educationally disadvantageous sections of the society. All these petitioners, it appears, were recruited as Badli Coal fillers initially. At the time when they sought for employment with the Singareni Collieries Company Limited, they did not have educational certificates readily with them to support their claim for recording the correct date of birth in the service records of the Company. They did not also have the benefit of appropriate counseling from anyone. In view of their dire necessity to secure employment and that too with a prestigious organization such as that of Singareni Collieries Company Limited, the petitioners have agreed for whatever the age the Medical Officer has decided at the time of their employment. Learned counsel for the petitioners therefore have raised a plea that the Medical Officer who has examined the petitioners at the time of their initial engagement by the company was infact entrusted with the task of ascertaining the physical fitness of the respective candidates for undertaking an arduous nature of duties and responsibilities, particularly, in view of the fact that most of the work places are underground areas. While making an assessment about the physical fitness of the respective candidates to undertake any such employment, question of determining the age of the respective candidates would not have normally arisen. It is, therefore, urged by the learned counsel for the petitioners that the abrupt and arbitrary manner in which the age of the candidates was determined by the Medical Officers at the time of their initial engagement by the Singareni Collieries Company Limited is anything but scientific. It is contended that such a determination was based upon the physical build of the respective candidates. Based upon the age so determined, the Singareni Collieries Company Limited has “fixed” the date of birth of the respective candidates, reckoned backwards from the date of medical examination which is at variance with their actual and correct date of birth. It is, therefore, urged that a fair opportunity should be provided to the writ petitioners to have the dispute sorted out amicably.

Per contra, Sri Nandigama Krishna Rao, learned Standing Counsel for the Singareni Collieries Company Limited would point out that the employees who have

put in considerable length of service of nearly 30 or 30 + number of years cannot turn round at the verge of retirement from service and seek revision/correction of their date of birth as entered in the service record so that, they can continue for some more years in service of the company. According to the learned Standing Counsel, all the writ petitioners were in the know of the date of birth recorded and prevailing in the respective service records of each of them. When the age of superannuation is a fixed one, consequently they are all aware as to the date of their eventual retirement from service. But however, they would like to continue in the service of the company for their own personal or private reasons as they will get paid full wages, instead of depending upon the terminal benefits which they would be getting. Sri Nandigama Krishna Rao would also point out that it is one of the biggest source of difficulties in manpower management by the company. People who are younger than the petitioners herein would be aspiring and looking forward for earning promotions and when they will not be able to get such promotions for few more years, they get easily frustrated and that would be telling upon the productivity of the organization. Therefore, Sri Nandigama Krishna Rao would urge that the petitioners should be permitted to be retired and in the unlikely even of their succeeding in the respective writ petitions, the company can pay the back wages treating them as if they have continued in the service of the company.

The problem of human resource management brought out forcefully by Sri Nandigama Krishna Rao is unlikely that it may repeat in the nearest future. As I could gather, all these petitioners were those who have been recruited sometime towards the late 1970's and early 1980's and they have nearly completed 30 or 30+ number of years of service to the company. But lately, all such recruitment processes which are initiated from 1990's onwards, brought forth employment for those who are literate and consequently, they were producing their educational qualifications at the time of their recruitment and in all such cases, the date of birth as entered in the school record would continue to get reflected in the service record to be maintained by the Corporation and consequently, such cases will not pose any further problems to the company.

Be that as it may, the company is also conscious of this perennial problem and has been evolving various methods for purposes of overcoming the difficulties

encountered in this regard.

Learned counsel for the petitioners has placed heavy reliance upon the Judgment rendered by the Supreme Court in ***Bharat Coking Coat Ltd and Ors vs. Chhota Birsa Uranw***. It will be appropriate to notice that the Supreme Court has considered the procedure as laid down by the Implementation Instruction No.76 to determine the date of birth of an existing employee of the coal company and thereafter commended the said procedure.

With the learned counsel appearing on either side, I have mooted the idea of allowing the petitioners herein to be subjected to a medical examination all over afresh by the doctors of the respondent company, at the first instance, who can comprise of Doctors such as General Physician, General Surgeon, Orthopedic Surgeon, Radiologist, Dentist, etcetera, who are all highly trained professionals who can with a reasonable degree of accuracy be able to determine the age of the candidate brought before them. May be, that the age determination carried out now may vary by few days or at worst by few months, to the one claimed as true date of birth. But when scientifically studied, the age of the candidates can be determined with the nearest possible accuracy. Hence, it will be appropriate that the Medical Officer determine the present age of the employee of the company brought before him. This method will first drive away the apprehension of the petitioners that they are given a raw deal by the company and secondly it will also inspire necessary confidence in the mind of the respective petitioners that after a proper examination and thorough evaluation, the examining doctor has determined the age of the candidates concerned. Thereafter, the case of each candidate can be subjected to scrutiny by Apex Medical Board which might comprise officers of the company representing the personnel and administration department also apart from the presence of appropriate number of Doctors. The petitioners cannot object to the participation of the officers from the personnel and administrative wings in the Apex Medical Board, where appropriate number of Medical Officers also will be present, so that, the Apex Medical Board will take an ultimate decision in the case of each of the petitioners. By adopting this procedure, a fair method can be worked out and satisfactorily the controversy can be resolved.

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. Inspite 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.

With this, all these writ petitions stand disposed of. I place on record my sincere appreciation of the efforts put in by the learned Standing Counsel and also of the respondent company.

Miscellaneous applications pending in all these cases shall also stand closed. No costs.

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JUSTICE NOOTY RAMAMOHANA RAO

31.03.2015

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