

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No.1270 of 2006**

Sripat Ram @ Sripati Ram Aged about 55 years, S/o Late Somaru Ram,
R/o 2 B/5 Jaiprakash Colony, Post: Subhash Block, SECL, Dist: Korba
(CG)

---Petitioner

Versus

1. South Eastern Coalfields Limited Through its Chairman-cum-
Managing Director, Seepat Road, Bilaspur (CG)-495006
2. General Manager, Central Workshop, SECL, Korba

---Respondents

For Petitioner	:	Mr. Gary Mukhopadhyay, Advocate
For Respondents	:	Mr. Vivek Verma, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

04/10/2016

1. The petitioner joined services with the SECL on 5.7.1972 on the post of Under Ground Loader. He disclosed his date of birth as 2.3.1946 in Form 'B' maintained under Rule 48, 51, 77 and 77A(2) of the Mines Rules and thereby the SECL recorded date of birth of the petitioner as 2.3.1946. In the meanwhile, on 21.2.2006, the petitioner filed the writ petition before this Court stating that his date of birth has wrongly been recorded in the service records of the petitioner by the SECL and his actual date of birth is 5.3.1951. In support of his date of birth, he filed Nirgam Praman Patra (Annexure P/3) in which his date of birth is recorded as 5.3.51 and also filed marksheet issued by the D.A.V. Inter College, Gazipur (Annexure P/4) in which no date of birth is recorded. He also filed School Leaving Certificate/Transfer Certificate (Annexure P/5)

issued by the Head of the Institution, D.A.V. Inter College, Gazipur, in which date of birth of the petitioner has been shown as 5.3.51. On the basis of aforesaid documents, the petitioner claimed that his date of birth be corrected as 5.3.1951 in the service records of the SECL and he is entitled for continuation of service and other consequential benefits. In the meanwhile, the petitioner retired from his service on 31.3.2006.

2. Return has been filed by the SECL opposing the prayer stating that as per service records, date of birth of the petitioner is 2.3.1946 and statutory documents as required under Implementation Instruction No.76 have not been filed by the petitioner and the documents filed by the petitioner cannot be relied upon as date of birth of the petitioner is 2.3.1946.

3. No rejoinder has been filed.

4. I have heard learned counsel appearing for the parties and considered their rival submissions made and also gone through the documents appended with the petition.

5. In order to consider the plea raised at the Bar, it would be appropriate to notice the relevant provision contained in Implementation Instruction No.76 which is a part of National Coal Wage Agreement III and which provides procedure for determination/verification of the age of the employees, and for resolution of disputed cases of Service Records, framed by the Joint Bipartite Committee for the Coal Industrial of Coal India Limited. In Implementation Instruction No.76, the procedure is divided in two parts, Para (A) provides for Determination of the age at the time of appointment whereas Para (B) provides for Review/determination

of date of birth in respect of existing employees. In order to consider the plea raised at the Bar, it would further be appropriate to reproduce Para (A) (ii) which provides for determination of the age at the time of appointment. It reads as follows:-

“(ii) Non-matriculates but educated.

In the case of appointees who have pursued studies in a recognised educational institution, the date of birth recorded in the School Leaving Certificate, shall be treated as correct date of birth and same will not be altered under any circumstances.”

6. Para (B) of Implementation Instruction No.76 provides for Review/determination of date of birth in respect of existing employees which we are concerned here. Para (B) (i) (a) of the said Instruction reads as follows:-

“(i) (a) In the case of the existing employees Matriculation Certificate or Higher Secondary Certificate issued by the recognised Universities or Board or Education and/or Department of Public Instruction and admit cards issued by the aforesaid Bodies should be treated as correct provided they were issued by the said Universities/Boards/Institutions prior to the date of employment.”

7. A careful and critical reading of Para (B) (i) (a) of Implementation Instruction No.76 would show that in case of existing employees, following documents issued prior to the date of employment shall be treated as correct:-

1. Matriculation certificate
2. Higher Secondary Certificate issued by the recognized University or Board.

3. Middle Pass Certificate issued by the Board of Education and/or Department of Public Bodies.

4. Admit cards issued by the aforesaid Bodies.

Thus, four kinds of documents are deemed to be correct if they are available and they must have been issued by the said University, Board or Institution prior to the date of employment.

8. Their Lordships of the Supreme Court in the matter of **Eastern Coalfields Limited and others v. Bajrangi Rabidas**¹ noticing the above-stated clause in Implementation Instruction No.76 have clearly held that date of birth recorded in Matriculation or Higher Secondary Examination is to be accepted as authentic.

9. This would bring me to the facts of the present case. Undisputedly, the petitioner has placed reliance upon three documents. First is Nirgam Praman Patra, in which date of birth of the petitioner has been mentioned as 5.3.51, which is not the earmarked document as mentioned in Implementation Instruction No.76. The next document is marksheet issued by the D.A.V. Inter College, Gazipur, which is also not the earmarked document mentioned in Implementation Instruction No.76. In that document no date of birth is recorded. Last one is School Leaving Certificate issued by the D.A.V. College Gazipur, in which date of birth is mentioned as 5.3.51, which is not the document as admissible under the Implementation Instruction No.76.

8. Since, the petitioner has not not filed any document as

¹ (2014) 13 SCC 681

admissible in Implementation Instruction No.76, which is the part of National Coal Wage Agreement, he has failed to make out a case for correction of his date of birth in the service records.

9. The Division Bench of this Court In Writ Appeal No.113 of 2014, decided on 20.9.2016 (**South Eastern Coalfields Ltd. and others Vs. Adya Singh**) has laid down the similar proposition and clearly held that either of four kinds of documents mentioned in Para (B) (i) (a) of Implementation Instruction No.76 has to be filed to establish correction in the date of birth in service records.

10. On the basis of aforesaid analysis, I do not find any merit in this writ petition.

11. Consequently, the writ petition is liable to be and is hereby dismissed. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-