

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 1065/2016

(Kamleshwar Bansraj Mourya vs. Union of India and others)

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

Court's or Judge's order

Mr. Akol Daga, Advocate for the petitioner
Ms. Pushpalata Rajan, Advocate for Respondent Nos. 1 & 2

CORAM : SMT. VASANTI A.NAIK &
MRS.SWAPNA JOSHI, JJ.

DATED : 24th June, 2016

Heard.

By this Writ Petition, the petitioner challenges the communication of the respondent- Western Coalfields Limited, informing the petitioner that he was due to retire on attaining the age of superannuation on 30.6.2016. The petitioner has sought a direction against the respondent -WCL to correct the date of birth of the petitioner in his service record and substitute the date as "10.11.1959".

The relief sought by the petitioner cannot be granted in exercise of the writ jurisdiction, under Article 226 of the Constitution of India. An age row cannot be decided by the High Court. It is the case of the petitioner that his date of birth is 10.11.1959 whereas, according to the respondent-

WCL, the date of birth of the petitioner is 1.7.1956. The petitioner has tendered a couple of documents to point out that the date of birth of the petitioner is 10.11.1959, whereas voluminous documents have been tendered on behalf of the respondent-WCL to point out that the date of birth of the petitioner was recorded in the service record as 1.7.1956 and most of the documents are signed by the petitioner and/or the petitioner has affixed his thumb impression on them. It is the case of the respondent-WCL that consistently, the documents - service record was endorsed by the petitioner and in the said record, the date of birth of the petitioner was recorded as 1.7.1956.

As stated herein-above, it would not be for this Court to decide the issue involved in this Writ Petition, in exercise of the writ jurisdiction. It would be necessary for the petitioner to avail an appropriate remedy. The petitioner could be entitled to seek a reference of the dispute to the Central government Industrial Tribunal. We find that the petitioner had raised an objection in regard to the wrongful recording of the date of his birth to the authorities at the fag end of his service and when the petitioner was about to retire on attaining the age of superannuation on 30.6.2016, he has filed the Writ Petition, on 19.1.2016. The petitioner is entitled to avail the alternate remedy.

In the circumstances of the case, we dismiss the Writ Petition, with no order as to costs.

JUDGE

JUDGE

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