

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

WRIT PETITION NO.689 OF 2016

Shri Hareram Singh S/o Dinanath Singh

-vs-

Western Coalfields Limited, through its Director (Personnel), Coal Estate, Civil Lines, Tahsil and
District Nagpur and ors

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

Court's or Judge's Orders.

Mr.AN. Ansari, counsel for the petitioner.

Mr.P.C. Marpakwar, counsel for the respondent Nos.1 to 3.

CORAM : SMT. VASANTI A. NAIK &
V. M. DESHPANDE, JJ.

DATE : MARCH 22, 2016.

By this writ petition, the petitioner seeks a direction to the respondents to correct the date of birth of the petitioner from 1.7.1956 to 1.11.1956 in the service record. The petitioner challenges the notice of termination dated 28.10.2015, based on the recording of the birth of the petitioner as 1.7.1956.

The petitioner was appointed on the post of Timber Mazdoor by the respondents on 9.12.1978. It is the case of the petitioner that the date of birth of the petitioner was wrongly recorded as 1.7.1956 though the date of birth of the petitioner is 1.11.1956. According to the petitioner, though the petitioner submitted the particulars of his family in Form-PS-3 and Form-PS-4 intimating his date of birth as 1.11.1956, the respondents scored the date of birth and changed it to 1.7.1956. The petitioner made a written representation requesting the respondents for changing the date of birth in the service record on 18.10.2011. The

petitioner claims that he was referred to the Committee for Age Verification after the representation was made and an inquiry was conducted in the matter. It is stated that despite the request of the petitioner for correcting the date of birth in the service record, the respondents have not corrected the same and have not rendered any decision on the application of the petitioner. It is stated on behalf of the petitioner that the grievance of the petitioner would stand redressed if the Age Verification Committee decides the matter in respect of the change in the date of birth of the petitioner. It is stated that if the Age Verification Committee decides against the petitioner, he would take up appropriate civil procedure.

Shri P.C. Marpakwar, the learned counsel for the respondents opposes the prayer made in the writ petition. It is submitted that though the petitioner was appointed in the year 1978, the petitioner did not apply for changing the date of birth in the service record, till he was on the verge of the retirement, in the year 2011. It is stated that the date of birth of the petitioner was recorded in Form-PS-3 and Form-PS-4 as 1.7.1965. It is denied that the respondents had scored the date of birth written by the petitioner in Form-PS-3 or Form-PS-4. It is submitted that the application of the petitioner was referred to the Age Verification Committee, but the Age Verification Committee did not grant an order in favour of the petitioner in view of the old service record that was maintained by the respondents. It is stated that the petition suffers from laches inasmuch as though the petitioner had applied for change in the date of birth on 18.10.2011, the writ petition is filed on 25.1.2016 after the petitioner received the notice of retirement. It is stated that

in the circumstances of the case, the relief sought by the petitioner cannot be granted.

On hearing the learned counsel for the parties, it appears that a direction cannot be issued to the respondents to correct the date of birth of the petitioner in the service record, in exercise of the writ jurisdiction. There are several documents referred to by the petitioner and these documents show that the date of birth of the petitioner was recorded as 1.7.1956 in the service record. Even assuming that the date of birth of the petitioner was wrongly recorded in the service record since the year 1978, it would not be proper for this Court, in exercise of the writ jurisdiction to direct the respondents to correct the date of birth of the petitioner. An age row cannot be decided in exercise of the writ jurisdiction. The issues of facts would arise while deciding the age row. However, since the learned counsel for the petitioner states that the grievance of the petitioner would stand redressed, if this Court directs the Age Verification Committee constituted by the respondent to take a decision on the application made by the petitioner for correction of the date of birth, the writ petition could be disposed of with a direction of the respondents to decide the application for correction of the date of birth. Though we find that there is an inordinate delay in making the first application for correction of date of birth on 18.10.2011 and also in approaching the Court in January, 2016, it would not be proper to dismiss the writ petition on the ground of laches as the Age Verification committee had initiated an inquiry in the matter of change of date of birth of the petitioner.

Hence, for the reasons aforesaid, the writ petition

is partly allowed. The respondents are directed to decide the application of the petitioner for correction of the date of birth as early as possible and positively, before the date of superannuation of the petitioner.

Order accordingly. No costs.

JUDGE

JUDGE

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