

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.2826 of 2014

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ORDER:
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This writ petition, filed under Article 226 of the Constitution of India, challenges the proceedings issued by the General Manager, Singareni Collieries Company Limited/the third respondent herein, vide reference No.RG.I/Per/43/7050, dated 07/12-11-2012 and the proceedings of the Deputy General Manager, Singareni Collieries Company Limited/the fourth respondent herein vide reference No.RG.I/moc./wo/13/331, dated 04.01.2013, intimating the date of retirement of the petitioner from service of the Company as 29.02.2016.

2. Heard Sri A.K.Jaya Prakash Rao, learned counsel for the petitioner and Sri Nandigama Krishna Rao, learned Standing Counsel for the respondents.

3. According to the petitioner, he joined in the service of the respondent/Company as General Mazdoor on 11.02.1981 and he pursued his education in Zilla Parishad High School, Dharmaram, Karimnagar District up

to 9th class. It is further pleaded that at the time of joining the service in the respondent company, petitioner submitted his Transfer Certificate dated 27.06.1977 issued by the Zilla Parishad High School and in the said certificate date of birth is shown as 13.02.1960. It is the further case of the petitioner that the respondent Company sent the petitioner initially for medical examination and the Medical Officer, who examined the petitioner, certified the age of the petitioner as 20 years.

4. It is further averred in the writ affidavit that the petitioner herein got promotion as E.P. Operator on 20.01.2007 and working as such till date. The respondent Company issued a circular bearing Ref.No.CRP/PER/IR/A/51/1864, dated 16.08.2012, enabling the employees to submit representations touching the disputes pertaining to

the date of birth. According to the petitioner, he submitted representation to the respondents enclosing a copy of Medical Certificate dated 04.02.1981 issued in Form "O" by the Medical Officer and the Transfer Certificate issued by the Zilla Parishad High School, Dharmaram, karimnagar District, to show that his date of birth is 13.02.1960. Subsequently, the respondent Company referred the petitioner herein for Area Age Determination Committee. It is the complaint of the petitioner herein that the said Committee without looking into the material furnished by the petitioner and the relevant instructions guiding the situation, rejected the request of the petitioner by virtue of the impugned proceedings dated 07/12-11-2012. Subsequent to the rejection of the request by the third respondent, the fourth respondent issued an order 04.01.2013 informing the date of retirement of the petitioner as 29.02.2016.

5. According to the learned counsel for the petitioner, the said action on the part of the respondents is in contravention of Instruction No.76, governing the procedure for determination and verification of age of the employees. It is also the specific contention of the learned counsel for the petitioner that the Committee also failed to take into consideration the report of the Medical Officer prepared at the time of appointment of the petitioner on 04.02.1981.

6. On the contrary, it is the vehement submission of the learned Standing Counsel that there is absolutely no illegality on the part of the respondent authorities in refusing the request of the petitioner since the instruction referred to by the learned counsel appearing for the petitioner would not enure to the benefit of the petitioner. It is also the submission of the learned Standing Counsel that the report of the Medical Officer, dated 04.02.1981, cannot be the sole basis for determining the age of the petitioner. For the purpose of deciding the above two issues raised by the learned counsel for the petitioner, it would be appropriate to refer to the relevant clauses in instruction No.76 referred to *supra*. Class 'B' of Instruction No.76 deals with the review/determination of date of birth in respect of existing employees. The sub-clause (i) (a) of Clause 'B' is

relevant for the purpose of adjudication of the present issue in the present writ petition and the same reads as under:

“In the case of the existing employees Matriculation Certificate of Higher Secondary Certificate issued by the recognized Universities of Board or Middle Pass Certificate issued by the Board of 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. While pointing out the above referred Clause, it is the emphatic contention of the learned Standing Counsel that the said Clause does not cover a Transfer Certificate as sought to be relied upon by the petitioner.

A reading of the above said Clause in clear and unequivocal terms stipulates that there can be review/determination of date of birth in respect of existing employees based on Matriculation Certificate or Higher Secondary Certificate issued by the recognized universities or Board or Middle Pass Certificate issued by the Board of Education and/or Department of Public Instruction and admit cards issued by the aforesaid Bodies. As submitted by the learned Standing Counsel, the said Clause is not inclusive of the Transfer Certificate. Therefore, the contention raised by the learned counsel for the petitioner that Transfer Certificate also ought to have been taken into consideration by the respondents, in the considered opinion of this Court, cannot be sustained.

8. Coming to the second contention, touching the Medical Certificate dated 04.02.1981, issued by the Officer of the respondent Company in Form 'O', there is absolutely no reason forthcoming from the respondents as to why the said certificate should not be taken into consideration for the purpose of determining the list. In fact, the Committee ought to have considered the said report also for arriving at the conclusion. This Court absolutely finds no justification on the part of the respondent authorities in discarding such vital document while reviewing/determining the age. In the circumstances, this Court is of the considered opinion that the ends of justice would be met, if a direction is issued to the respondents to consider

the request of the petitioner in the light of the Medical Certificate, dated 04.02.1981 issued in Form "O" by the Medical Officer of the respondent company on 04.02.1981 i.e., at the time of appointment of the petitioner and pass appropriate orders afresh.

9. For the aforesaid reasons, the writ petition is disposed of, directing the respondents herein to consider the request of the petitioner afresh in the light of the Medical Certificate, dated 04.02.1981 issued in Form "O" also and pass appropriate orders, within a period of three months from the date of receipt of this order by constituting a Medical Board consisting of experts in the concerned field. Till such exercise attains finality, the petitioner herein shall be continued in service. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:25.02.2016
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WRIT PETITION No.2826 of 2014

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Dated 25th February, 2016

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