

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition No.1152 of 2003

Chhattisgarh State Electricity Board, Through Executive Engineer (O & M)
Division, Post Khairagarh, Distt. Rajnandgaon (C.G.)

---- Petitioner

Versus

Bhawar Singh Thakur, S/o Amar Singh, Kaliward, Kalika Nagar, Jabalpur
Road, Kawardha, Distt. Kawardha (C.G.)

---- Respondent

For Petitioner: Mr. Vinod Deshmukh, Advocate.

For Respondent: Mr. Pankaj Agrawal, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

12/07/2017

1. The respondent herein joined the service of the erstwhile Electricity Board on 4-9-1965 and his date of birth was recorded as 23-3-1941, but on the basis of documents available on record, he was retired on 30-4-1997 treating his date of birth as 15-4-1939. The respondent challenged the order of retirement by filing application under Section 31(3) of the Madhya Pradesh Industrial Relations Act, 1960 on 9-11-1998 and that application was ultimately, allowed by the Labour Court by order dated 19-9-2001 in which the Labour Court has only directed that the respondent is entitled for salary from 30-4-1997 to 23-3-1999 against which the petitioner Board has filed appeal before the Industrial Court and the Industrial Court has dismissed the appeal. Feeling dissatisfied against the order of the Industrial Court, the petitioner Board has filed this writ petition.
2. Learned counsel for the petitioner Board would submit that the respondent is not entitled for any relief as he has filed the application

after 1½ years from the date of his retirement, as he retired on 30-4-1997 and the application was filed on 9-11-1998 which has been allowed by the Labour Court.

3. On the other hand, learned counsel for the respondent employee would submit that the Labour Court is absolutely justified in granting salary from 30-4-1997, date of retirement, till 23-3-1999 treating his date of birth as 23-3-1941. Such a finding is based on the evidence available on record and there is no error apparent on the face of record.
4. I have heard learned counsel for the parties and perused the orders impugned and also the records of the Labour Court and the Industrial Court.
5. The respondent joined service on 4-9-1965 and he retired on 30-4-1997. He filed application for correction of date of birth on 9-11-1998 i.e. with a delay of 1 year six months and the Labour Court has directed for payment of salary treating his date of birth as 23-3-1939 for a period of two years. Finding with regard to the fact that the Electricity Board has failed to establish that date of birth of the respondent was 23-3-1941 is based on evidence available on record because, as per the school leaving certificate, his date of birth is 23-3-1941, but the person concerned from the school was not established.
6. Now, the question is whether the respondent is entitled for salary from 30-4-1997 to 23-3-1999 for two years.
7. The Labour Court has granted salary for the period from 30-4-1997 to 23-3-1999 for two years. The respondent has filed application only on 9-11-1998.

8. Since the petitioner retired from service on 30-4-1997 and filed application for claiming back-wages on 9-11-1998, whereas the Labour Court has granted salary from 30-4-1997 to 23-3-1999 and since the petitioner himself is guilty of delay in filing the application and has filed application on 9-11-1998 with a delay of 1½ years, he will be entitled for arrears of salary with effect from 10-11-1998 to 23-3-1999.
9. The writ petition is allowed to the extent indicated herein-above. No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge

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