

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition No.1136 of 2006

Ramswaroop, S/o Shri Late Mohitram, aged about 54 years,
Watchman Gilapani Colliery, S.E.C.L. District Koriya (C.G.)
---- Petitioner

Versus

1. South Easter Coalfields Ltd., through the Chairman cum Managing Director, Seepat Road, Bilaspur (C.G.)
2. The Deputy Chief Material Manager, South Eastern Coalfields Ltd., Chirmiri Area, District Koriya (C.G.)
3. The Purchase Officer Regional Source, South Eastern Coalfields Ltd., Chirmiri Area, District Koriya (C.G.)
---- Respondents

For Petitioner:	Miss Sharmila Singhai, Advocate.
For Respondents:	Mr. Ghanshyam Patel, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

19/05/2017

1. The petitioner was working in South Eastern Coalfields Limited (SECL) as Category-I Mazdoor at Korea Colliery appointed on 13-4-1976. He did not submit any certificate of matriculation or higher secondary issued by recognised University or Board and his date of birth was recorded as 14-9-1946. He was due to retire on 30-9-2006 and prior to his retirement, he filed this writ petition on 22-2-2006 seeking relief that the respondent authorities be directed to correct the date of birth of the petitioner as per his school register and the certificate issued by

the Head Master, Primary School, Girjapur, Distt. Surguja.

2. The respondents have filed return opposing the writ petition and submitted that in various documents annexed with the return Annexures A, B, C, D, E, F, G and H, the petitioners date of birth is recorded as 14-9-1946 and all these documents have been duly signed by the petitioner. Only at the verge of retirement, at the fag end of his service, the petitioner has filed writ petition to get the date of birth corrected, as the case of the petitioner does not fall within the purview of Implementation Instruction No.76 and no matriculation or school leaving certificate issued prior to the date of appointment has been produced by the petitioner. The documents produced as Annexure P-1 are not the documents contemplated under the said Implementation Instruction, therefore, the petitioner is not entitled for any relief.
3. Miss Sharmila Singhai, learned counsel appearing for the petitioner, would submit that on the basis of Annexure P-1 which is a copy of register maintained by Primary School, Girjapur, in which the petitioner's date of birth is recorded as 1-2-1952, the petitioner is entitled for correction of his date of birth as 1-2-1952.
4. On the other hand, Mr. Ghanshyam Patel, learned counsel appearing for the respondents, would support the plea that the date of birth of the petitioner has correctly been recorded.

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 the 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 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. 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 Instruction.
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.

¹ (2014) 13 SCC 681

Undisputedly, the petitioner has relied upon the document Annexure P-1 which is a copy of the register maintained by Primary School, Girjapur. It is neither matriculation certificate nor higher secondary school certificate issued by recognized University or Board or Middle Pass Certificate issued by the Board of Education and / or Department of Public Instruction and admit card issued by the aforesaid bodies. It is a register maintained by the Primary School in which the petitioner has passed the primary school examination and in which the date of birth of the petitioner has been recorded as 1-2-1952 and as such, it is not falling within any of the documents which is contemplated under Implementation Instruction No.76. Therefore, date of birth cannot be corrected on the basis of the documents maintained by the said school and which is not covered by the statutory documents required to be submitted for correction of date of birth.

10. Miss Singhai would also submit that the age determination report submitted by the respondents is not in accordance with law and age determination has not been properly made and only the age of the petitioner has been recorded.
11. Though return has been filed way back on 5-8-2006, but the petition has neither been amended nor the age determination committee report has been challenged by amending the writ petition as such, new ground cannot be permitted to be raised without challenging the same in the writ petition.

12. In view of the above, I do not find any merit in the writ petition.

The writ petition deserves to be and is accordingly dismissed leaving the parties to bear their own costs.

Sd/-
(Sanjay K. Agrawal)
Judge

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