

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No. 4156 of 2006**

Ramu Ahir, S/o Shri Sukali Yadav (Ahir), Aged about 50 years, R/o, C/o Shri Sangram Singh Dafai, Post Office – Dhanpuri, District Shahdol (M.P.)

---- Petitioner**Versus**

1. South Eastern Coalfields Limited, Through its Managing Director, Seepat Road, Bilaspur (C.G.)
2. The General Manager, South Eastern Coalfields Limited, Sohagpur Area, P.O. Dhanpuri, Police Station – Dhanpuri, District Shahdol (M.P.)
3. The Manager, Navgawa Project Colliery, Sohagpur, S.E.C.L., P.O. Karha, P.S. Budhar, Tahsil – Sohagpur, District Shahdol (M.P.)

---- Respondent

For Petitioner: Mr. Gagan Tiwari, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****22/11/2017**

(1) The petitioner claimed his date of birth to be 1.3.1956 and filed writ petition before this Court being Writ Petition No. 1866/2006. This Court, by its order dated 20.04.2006 referred the matter to the Age Determination Committee. The Age Determination Committee, by its order dated 20.06.2006 determined the age of the petitioner to be 01.07.1946. Feeling aggrieved and dissatisfied with the order of Age Determination Committed, instant writ petition has been filed questioning the

same.

(2) Learned counsel for the petitioner would submit that petitioner has filed his school leaving certificate, in which date of birth of the petitioner is shown to be 1.3.1956, which has not been considered by the Age Determination Committee and date of birth of the petitioner is held to be 01.07.1946 whereas his actual date of birth is 1.3.1956.

(3) None appeared on behalf of the respondents, though served.

(4) I have heard learned counsel appearing for the petitioner and perused the material available on record with utmost circumspection.

(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-matriculantes 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) Coming back to the facts of the case, the petitioner has relied upon the School Leaving Certificate issued on 23.10.2002 for determination of his date of birth. According to which, petitioner's date of birth is 01.03.1956 whereas the petitioner has joined the services of the SECL on 1.4.1976. This document is not one of the documents enumerated in para (B)(i)(a) of Implementation Instruction No. 76, therefore, date of birth recorded in the School Leaving Certificate cannot be treated to be correct.

(10) Following the decision of Supreme Court in the matter of **G.M., Bharat Cooking Coal Ltd., West Bengal v. Shib Kumar Dushad and others**² and the decision rendered by the Division Bench of this Court in Writ Appeal No. 113/2014 decided on 20.9.2016, it is held that the Age Determination Committee has taken into consideration the relevant documents while reaching to

¹ (2014) 13 SCC 681

² (2000) 8 SCC 696

such conclusion and as such, I do not find any illegality in the finding recorded by the Age Determination Committee warranting interference by this Court in the instant writ petition.

(11) Accordingly, the writ petition being devoid of merit is liable to be and is hereby dismissed. No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

