

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No.466 of 2015**

Arti Das, S/o Shri Mangloo Das, Aged 57 years, R/o Banki Basti, Tehsil-Katghora, District-Korba (CG)

---- Appellant

Versus

1. South Eastern Coalfield Limited, through Chairman-cum-Managing Director, Headquarter Sipat, District Bilaspur (CG)
2. Director (Personnel), South Eastern Coalfield Limited, Sipat, District-Bilaspur (CG)
3. Chief General Manager, South Eastern Coalfield Limited, Dipak Expansion Project, Dipka, District-Korba (CG)
4. Personnel Manager, South Eastern Coalfields Limited, Dipak Expansion Project, Dipka, District-Korba (CG)
5. Deputy Chief Personnel Manager, South Eastern Coalfields Limited, Dipka, District-Korba (CG)

---- Respondents

For Appellant	:	Mr.Rajeev Shrivastava, Advocate
For Respondents	:	Mr.Vivek Chopda, Advocate

Hon'ble Shri Pritinker Diwaker, Acting Chief Justice**Hon'ble Shri Justice Sanjay K. Agrawal****Order on Board****Sanjay K. Agrawal, J.****16/03/2017**

1. The appellant on the verge of retirement filed the writ petition being WP (S) No.483 of 2008 on 13.1.2008 stating inter-alia that his date of birth is 7.8.1959, whereas in service record his date of birth has incorrectly been recorded as 27.6.1948, therefore, direction be issued to the respondents-SECL to

correct his date of birth.

2. Respondents-SECL filed their written stating inter-alia that in all service record including FORM 'B' the appellant's date of birth has been recorded as 27.6.1948 and upon the appellant's instance, the matter was referred to Age Determination Committee, who has examined the case of the appellant in accordance with Implementation Instruction No.76 and found that date of birth of the appellant is 27.6.1948. During pendency of the writ petition, the appellant was served with a copy of the report of Age Determination Committee dated 28.4.2008.
3. Learned Single Judge by its impugned order dismissed the writ petition holding that the report of Age Determination Committee is based on material available on record and as such, there is no ground to interfere with the report of Age Determination Committee.
4. In this writ appeal filed by the appellant calling in question the order passed by learned Single Judge, Mr.Rajeev Shrivastava, learned counsel appearing for the appellant, would submit that no reasoned order has been passed by Age Determination Committee assigning any reason for holding the appellant's date of birth to be 27.6.1948, therefore, the order of learned Single Judge deserves to be

set aside.

5. On the other hand, Mr.Vivek Chopda, learned counsel appearing for the respondents, would support the order impugned and submit that the order passed by learned Single Judge is in accordance with law and no interference is warranted.
6. We have heard learned counsel appearing for the parties, considered their rival submissions made herein and also gone through the documents appended with the writ appeal with utmost circumspection.
7. It is pertinent to mention here that the writ petition was filed by the appellant on 13.1.2008 and in the meanwhile, Age Determination Committee has submitted its report and copy of the same was also supplied to the appellant vide communication dated 28.4.2008.
8. A careful perusal of the writ petition would show that even though copy of report of Age Determination Committee was supplied to the appellant during the pendency of writ petition, yet the writ petition was not amended by the appellant to question the report of Age Determination Committee. Even in the writ appeal, no ground appears to have been raised questioning the finding of Age Determination Committee and no leave has been sought from this Court to amend the writ

petition/writ appeal raising such a plea and first time before this Court argument has been raised that no reason has been recorded by Age Determination Committee while holding the age of the appellant to be 27.6.1948. The appellant has neither challenged the finding of Age Determination Committee by amending the writ petition nor raised a plea that the finding of Age Determination Committee is contrary to law before learned Single Judge. We cannot allow to raise a new plea for the first time before this Court.

9. Likewise, next argument raised by Mr. Shrivastava regarding Annexure A/2 School Leaving Certificate, which is relevant document and it ought to have been considered by learned Single Judge.
10. This Court is of the opinion that it cannot be considered as the document is not a document as envisaged under Clause (B) (i) (a) of the Implementation Instruction No.76.
11. Consequently, we do not find any scope in this writ appeal. The appeal deserves to be and is accordingly dismissed.

Sd/-

(Pritinker Diwaker)
Ag.Chief Justice

Sd/-

(Sanjay K.Agrawal)
Judge