

**HIGH COURT OF CHHATTISGARH, BILASPUR****WPS No. 1176 of 2017**

Satyaprakash S/o Late Shri Sidhari Lal, Aged About 30 Years R/o Sarai Singar, Post Hardibazar, District Korba (Chhattisgarh)

---- **Petitioner**

**Versus**

1. South Eastern Coalfields Limited Through : Its Chairman And Managing Director, Head Office, Seepat Road, Bilaspur, District Bilaspur (Chhattisgarh)
2. Chief General Manager, S. E. C. L. Ltd., Gevra Area Korba, District Korba (Chhattisgarh)
3. Deputy Regional Manager, Dhelwadih, Singhali, Bagdeva, Sub Area, Korba District Korba (Chhattisgarh)
4. Senior Manager (Personnel) Dhelwadih, Singhali, Bagdeva, Sub Area, Korba District Korba (Chhattisgarh)
5. Regional Personnel Manager, Korba, District Korba, Chhattisgarh.

---- **Respondents**

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| For Petitioner  | : | Mr. Vikash Pandey, Advocate.   |
| For Respondents | : | Mr. K.K. Shrivastava, Advocate |

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**Hon'ble Shri Justice Manindra Mohan Shrivastava**

**Order On Board**

**04/10/2017**

Heard.

1. By this petition, the petitioner seeks to assail correctness and validity of impugned order by which the petitioner's claim for compassionate appointment has been rejected, he being assessed as 42 years and 6 months.
2. The father of the petitioner, while in service of the respondents, died on 22.04.2014. As there existed policy for grant of compassionate appointment, the petitioner applied for grant of compassionate appointment. The

petitioner's application for compassionate appointment was considered but by impugned communication dated 23.01.2016, he has been informed that upon assessment, he was found to be aged about 42 years and 6 months. Therefore, as per the Rules of the Company, he is not entitled to employment. This order which is under challenge.

3. Learned counsel for the petitioner contended that while making enquiry to assess the age of the petitioner, various information supplied by the petitioner which included the mark-sheet of the brother of the petitioner and Adhar Card of the petitioner himself, was submitted which has been ignored and certificate dated 03.11.2015 issued by the Deputy CMO of SECL Hospital, the petitioner's application has been rejected.
4. Learned counsel for the petitioner submits that as number of documentary evidence with regard to his age was submitted before the respondents, the respondents ought not to have relied only on the assessment carried out by the Medical Board.
5. Per contra, submission of learned counsel for the respondents is that in the matter of assessment of age of the petitioner, the respondents have prescribed the rules with regard to determination of age in a situation where the candidate does not possess any matriculation or equivalent certificate of school passing matriculation or equivalent examination. In such a situation, the prescribed method of evaluation of age is that the date of birth will be determined by the Colliery Medical Officer keeping in view any documentary and other relevant evidence as produced by the appointee.
6. The relevant provision applicable in the matter has been reproduced by the respondents in the return, which is not disputed. The relevant provisions are as under :

**“Implementation Instruction No.76 of NCWA**

(A) Determination of the age at the time of appointment -

(I) Matriculates

In the case of appointees who have passed Matriculation or equivalent examinations, the date of birth recorded in the said certificate shall be treated as correct date of birth and the same will not be altered under any circumstances.

(ii) Non-matriculates but educated.

In the case of appointees who have pursued studies in a

recognized 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.

(iii) Ex-servicemen

In the case of Ex-servicemen who are not matriculates, the date of birth recorded in the Army Discharge Certificate shall be treated as correct date of birth and the same will not be altered under any circumstances. In the case of Ex-servicemen who have passed matriculation certificate will be treated as correct date of birth provided they have passed the matriculation examination before entering the Defence Services, otherwise the date of birth recorded in Army Discharge Certificate will be taken as correct date of birth.

(iv) In the cases of appointees not covered under the forgoing causes, the date of birth will be determined by the Colliery Medical Officer keeping in view any documentary and other relevant evidence as produced by the appointee. Date of birth as determined shall be treated as correct date of birth and the same will not be altered under any circumstances.”

7. The aforesaid provision would show that the determination of age at the time of appointment has to be made in the manner prescribed in clause (i) to (iv) of clause (A).
  
8. Admittedly, the petitioner was not possessed of any school examination certificates either of matriculation or equivalent examination nor any other certificate of any educational institution as recorded in the school leaving certificate. In such a case, the procedure prescribed in clause (iv) is required to be followed. According to which, the date of birth will be determined by the Colliery Medical Officer keeping in view any documentary and other relevant evidence as produced by the appointee. In the present case, the age of the petitioner has been determined by the Colliery Medical Officer which is evident from certificate annexed along with Annexure P/5 which shows that the age of the petitioner has been determined as 42 years and 6 months. There is no other document evidencing age of the petitioner. The other documents which have been placed on record relate to the mark-sheet of the brother of the petitioner and not of the petitioner, himself. Moreover, the petitioner has submitted Adhar Card but it has not been stated as to on what basis the date of birth was recorded in the Adhar card. In the absence of there being any sanctity to the entries made in the Adhar card with regard to the date of birth, that cannot be made a basis. Therefore, while assessing the age of the petitioner, it cannot be said that the respondents have departed or deviated from their own laid down procedure in the matter of assessment as per Implementation Instruction No.76.

9. It is not the decision but the decision making process which is required to be examined in order to find out whether the decision suffers from arbitrariness or irrationality. The dispute with regard to the age is essentially a factual dispute. That would require evidence. As the assessment of the age of the petitioner by the respondents is in accordance with their own laid down procedure of assessment, this Court is not inclined to interfere with the decision of the respondents as it cannot be termed as arbitrary or irrational. Therefore, I do not find any ground to interfere with the impugned order.

10. The petition is therefore dismissed.

Sd/-

**(Manindra Mohan Shrivastava)**  
**J U D G E**