

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No. 567 of 2015

- Chauthi S/o Shri Rajman, Aged About 52 Years R/o C/o Shri Ram Ashray S/o Banshraj, Q. No. 221, Ekta Nagar, Khongapani, P. S. Jharkhand, Tehsil Manendragarh, District Korea (Chhattisgarh)

---- Appellant

Versus

1. South Eastern Coalfields Limited Through Chairman Cum Managing Director, South Eastern Coal Fields Limited, Seepat Road Bilaspur (Chhattisgarh)
2. General Manager (Personnel/ Administration), South Eastern Coal Fields Limited, Seepat Road, Bilaspur (Chhattisgarh)
3. Chief Personnel Manager, South Eastern Coal Fields Limited, Chirmiri Area, Chirmiri, District Korea (Chhattisgarh)
4. Manager, Office Of Senior Manager (Mining), West Chirmiri, Colliery, South Eastern Coalfields Limited, West Chirmiri, District Korea (Chhattisgarh)
5. Superintendent Mines, West Chirmiri Colliery, South Eastern Coalfields Limited, West Chirmiri, District Korea (Chhattisgarh)

----Respondents

For Appellant	: Shri Chandresh Shrivastava, Advocate
For Respondents	: Shri RK Gupta, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Justice Sharad Kumar Gupta

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice

26.07.2017

- 1) We have heard the learned counsel for the appellant and the learned counsel for the respondents.
- 2) Appellant was appointed as an employee of the first respondent on 06/11/1983. He obtained a direction in W.P.(S) No. 1997 of 2013 for determination of his age by the Age Determination Committee.

Thereafter, he was retired on 31/10/2013. In 2014 he filed the writ petition from which this appeal arises.

3) Applying the ratio of the judgment in Writ Appeal No. 399 of 2014 (**South Eastern Coalfields Limited and others Vs Sampat Kumar Chauhan**) rendered by this Court relying on **State of Uttarakhand vs. Pitamber Dutt Semwal 2005 (11) SCC 477**, it has been held by the learned Single Judge that this Court would not reassess the decision of the Age Determination Committee. It was also noticed that the statement of law contained in the judgment rendered in Writ Appeal No. 399 of 2014 stands concluded by the dismissal of the Special Leave Petition arising therefrom. Accordingly, the learned Single Judge held that the petitioner who joins service in November 1983 could not be permitted to agitate the question of his date of birth in 2013.

4) The learned counsel for the appellant argued that the materials on record would tend to show that it was not in 2013 that the appellant complained of the inaction of the establishment to correct his date of birth. Different earlier representations are pointed out. It is accordingly argued that there was a statutory obligation on the establishment to determine the age for the purpose of the service records. Support is sought to be gathered in this regard from the judgment of the Apex Court in **Bharat Coking Coal Limited and others vs. Chhota Birsia Uraon, 2014 (12) SCC 570**.

5) The learned counsel for the establishment submitted that the impugned judgment of the learned Single Judge does not warrant interference.

6) The principles of law stated in the impugned judgment following the decision in **Pitamber Dutt Semwal's case** (supra) and **Sampat Kumar Chouhan's case** (supra) cannot be faulted. The ratio of **Chhota Birsa Uraon** (supra) cited on behalf of the appellant is to be considered as one, whereby the Apex Court refused to interfere, at the instance of the establishment, with the relief granted by the High Court. The reason attributed in that said judgment is referable to the obligation of the establishment to carry out its duties. That, by itself, does not apply to the case in hand, for two reasons. Firstly, the appellant never sought for any relief before the institution of the writ petition of 2013 complaining about refusal of the establishment to discharge any statutory or public duty. Secondly, even as per the judgment obtained by him in the writ petition of 2013, the direction was to have the case of the appellant considered by the Age Determination Committee. Such a direction having been issued by this Court, the appellant cannot fall back on any earlier representation to demonstrate that he had been before the competent authority at the earliest point of time. On the facts and circumstances of the case in hand, the learned Single Judge cannot be found fault with for having dismissed the writ petition. The impugned judgment, rendered in writ jurisdiction, does not warrant interference through this intra Court appeal in terms of the provisions of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006. This Writ Appeal, therefore, fails.

7) In the result, this writ appeal is dismissed.

Sd/-
(**Thottathil B. Radhakrishnan**)
Chief Justice

Sd/-
(**Sharad Kumar Gupta**)
Judge