

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.16794 OF 2013

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, came to be filed seeking to declare the action of the respondent authorities in retiring the petitioner from service w.e.f. 30.04.2013, without considering the representation dated 09.06.2012 submitted by the petitioner for correction of his date of birth in his service records, as illegal and arbitrary.

The case of the petitioner, as seen from the affidavit filed in support of the Writ Petition, is that while he was working as General Mazdoor in OPC-3 I, the respondent authorities issued an advance intimation notice vide Ref.Nc.RG2/OC3(O)/217/Sr.PO/1420 dated 01.04.2012 stating that as per company records, petitioner will be attaining the age of superannuation i.e. 60 years on 07.04.2013 and as such he will retire from the service of the company w.e.f. 30.04.2013. Thereupon, petitioner approached the respondent authorities stating that his date of birth is '10.03.1959' and not '15.04.1953'. The petitioner also submitted a representation on 09.06.2012 seeking correction of his date of birth and also to permit him to continue in service till 10.03.2019. It is the case of the petitioner that if his representation is not considered, he will be losing six years of service. Along with said representation, petitioner also submitted 9th class Transfer Certificate issued by the Head Master, Zilla Parishad High School, Peddapalli, Karimnagar District, and the Health and Age Certificate issued by the Civil Assistant

Surgeon, MGM Hospital, Warangal. Alleging inaction on the part of the respondent authorities, the present Writ Petition is filed.

A counter came to be filed by the respondent authorities disputing the averments made in the affidavit filed in support of the writ petition. It is further stated that at the time of joining the Company, petitioner did not file any proof in support of his age. As such, he was sent to Medical Officer for age determination, who after due examination, assessed the age of the petitioner as '28' years as on 07.04.1981 and as such the age of the petitioner was entered as '07.04.1953', in all the company records. Hence, it is urged that there are no merits in the Writ Petition and the same is liable to be dismissed.

Heard the learned Standing Counsel for respondents.

Issue identical to the case on hand, came up for consideration before the Division Bench of this Court in *Desini Venkataiah v. The Singareni Collieries Company Limited and others* (Writ Appeal No.886 of 2012 decided on 18.07.2012) wherein this Court while rejecting the case of the petitioner-employee, held as follows:

“It is to be noticed that the variation in the date of birth of the writ petitioner was noticed by the company way back in the year 2003 when it was found that there were certain alterations in his identity and service book and Form-B register. Accordingly, as provided under Singareni Collieries Company Limited Age Retirement Rules, the dispute was referred to the Area Age Determination Committee. The said Committee after making the necessary enquiry, by proceedings dated 20.10.2003 determined the age of the writ petitioner as 23 years as on 06.06.1975. It is not in dispute that the

said report of the Committee was communicated to the writ petitioner. It is also relevant to note that as per Clause-5 of para-B of the above said Rules, the decision of the Committee shall be binding on both and it shall be final. Though the writ petitioner is very well aware of the said fact, he has not chosen to take any steps to question the decision of the Committee before the competent forum and the present writ petition came to be filed only in the year 2012 after receiving the proceedings dated 02.06.2011 informing him that he would attain the age of superannuation on 06.06.2012”.

In the instant case also, the Area Age Determination Committee, vide proceedings dated 25.06.2009, assessed the Date of Birth of the writ petitioner as ‘07.04.1953’. Admittedly, the petitioner has not challenged the proceedings dated 07.04.1953 and the same have attained finality. In view of the same and following the ratio laid down by this Court in the decision referred supra, this Writ Petition is liable to be dismissed.

Accordingly, the Writ Petition is dismissed.

Miscellaneous Petitions pending in this petition, if any, shall stand closed. No order as to costs.

JUSTICE C. PRAVEEN KUMAR

25.04.2017
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