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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 538 of 2017**

(Arising out of judgment/order dated 12.09.2017 passed in Writ Petition (S) No.2333 of 2017 by the learned Single Judge)

Matukdhari Yadav S/o Jamuna Prasad Aged About 59 Years Occupation Service Category - 3, SLP Central Hospital Vishrampur Area, SECL Vishrampur Area House No. 163 Yadavpara Ganeshpur Silphili Surajpur District Surajpur Chhattisgarh

---- Appellant**Versus**

1. South Eastern Coalfields Limited S/o Through The Chairman Cum Managing Director, Seepat Road, Bilaspur Chhattisgarh.
2. The General Manager SECL Area Vishrampur District Surajpur Chhattisgarh.
3. The Regional Personnel Manager SECL Vishrampur Area Vishrampur District Surajpur Chhattisgarh.
4. The Establishment Incharge SECL Vishrampur Area Vishrampur District Surajpur Chhattisgarh.

---- Respondents

For Appellant	: Shri Rakesh Pandey, Advocate.
For Respondents	: Shri Vinod Deshmukh, Advocate.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board**28/06/2018****Per Thottathil B. Radhakrishnan, Chief Justice**

1. The writ Petitioner is the Appellant. The contest before the learned Single Judge was as to whether the date of superannuation of the Appellant/writ Petitioner would be 30.09.2017 or whether he is entitled to continue in service till 05.06.2018. The learned Single Judge found that there are variations in the documents presented by the Management and held that review of age could be done in accordance with Clause (B) of the Implementation Instructions No.76.

Such finding of the learned Single Judge clearly excluded the possibility of the Establishment taking the stand that there are no variations in the records. The issue of age of the Appellant/writ Petitioner was relegated to the Age Determination Committee of the Establishment.

2. Heard the learned counsel for the parties.
3. In this appeal, the challenge levied is on the plea that the learned Single Judge failed to decide issues of facts relating to date of birth of the Appellant/writ Petitioner. At the time of consideration of the case in the stage of admission, the Division Bench had required that the due process by the Age Determination Committee be carried forward as directed by the learned Single Judge. That has been done. The decision of the Age Determination Committee dated 16.01.2018 is now placed on record by the Establishment. That concludes by saying that the date of birth of the Appellant/writ Petitioner is 18.09.1957. This is sought to be impeached now, in this appeal.
4. The substance of this appeal is to the legality and correctness or otherwise of the decision of the learned Single Judge in referring the case to the Age Determination Committee. The consequential decision of the Age Determination Committee gives rise to a fresh cause of action. That cannot be subjected to adjudication in this writ appeal by enlarging its scope to that extent. The reasons for this are more than one. Firstly, the Age Determination Committee's decision was not subject matter of the writ petition. Secondly, the consideration of the Age Determination Committee was done following the directions in the impugned judgment and the consequential decision cannot be subjected to further scrutiny in appellate jurisdiction.
5. We may also note that the learned Single Judge was not obliged in law to consider the documents relating to the Appellant/writ Petitioner, as was available with the Establishment. Firstly, those documents are among those which have to

be scrutinized by the Age Determination Committee in the review that was directed by the learned Single Judge. Therefore, there could not have been any predetermination, on that issue, by the learned Single Judge. More importantly, the consideration of those documents without any final decision at the hands of the Age Determination Committee would have created a situation of the learned Single Judge adjudicating on mixed questions of facts and laws without being confined to judicial review of a decision taken by the Establishment.

6. For the aforesaid reasons while this writ appeal fails, we would clarify that the right of the Appellant/writ Petitioner to challenge the decision of the Age Determination Committee and the consequential decision of the Establishment/SECL dated 16.01.2018, which is document-A produced by the Establishment/SECL in this writ appeal alongwith I.A. No.01 of 2018 would remain intact and the Appellant/writ Petitioner will have the liberty to seek redressal of any of his grievances against that decision in accordance with law from appropriate jurisdiction.

7. Subject to aforesaid, this writ appeal is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE