

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 138 of 2016**

Ashok Kumar Thakur S/o Shri Bhola Thakur, Aged About 55 Years
R/o Q. No. 67, Type B, Charcha Colliery, P. S. Charcha, Civil And
Revenue District Korea Chhattisgarh

---- Petitioner**Versus**

1. South Eastern Coal Fields Ltd. Through Chairman Cum Managing Director, South Eastern Coal Fields Ltd., Seepat Road, Bilaspur Chhattisgarh
2. Director, Personnel, South Eastern Coal Fields Ltd., Head Quarters, Seepat Road, Bilaspur Chhattisgarh
3. General Manager, (P & A) S. E. C. L. Bilaspur Head Quarters, Seepat Road, Bilaspur Chhattisgarh
4. Chief General Manager, South Eastern Coal Fields Ltd., Baikunthpur Area, District Korea Chhattisgarh
5. Area Personnel Manager, Baikunthpur Area, South Eastern Coalfields Limited, Baikunthpur Area, District Korea Chhattisgarh

----Respondents

For Petitioner	:	Mr. Chandresh Shrivastava, Advocate
For Respondents	:	Mr. Adil Minhaj, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****30/08/2018**

1. The challenge by the petitioner in the present writ petition is the impugned order Annexure P/1 dated 05.11.2015 whereby the respondents have refused to correct the date of birth of the petitioner and have accepted the corrected date of birth of the petitioner to be that as 14.11.1958 instead of 14.11.1960.
2. The brief facts which led to the filing of the present writ petition is that the petitioner was employed with the respondents as a General Majdoor initially in the year 1976. At the time of the appointment the date of birth of the petitioner in the service records was entered as 14.11.1960. The date of birth of the petitioner in all the service

records was accepted to be 14.11.1960. However on the basis of the circular dated 01.02.1999, the respondents unilaterally corrected the date of birth of the petitioner in the service book correcting the date of birth to be 14.11.1958 instead of 14.11.1960. The respondents has issued the circular on the basis that the minimum age of employment is 18 and as such the maximum service a person could get is 42 years of service have to be treated to have crossed the age of superannuation. The petitioner immediately filed a writ petition before this Court i.e. WPS No. 2312/2013, which stood disposed off with a direction to the respondents to send the matter of the petitioner to the age determination committee and thereafter to pass a suitable order.

3. The present impugned orders Annexure P/1 and P/2 have been passed pursuant to that where the respondents maintained the date of birth of the petitioner as 14.11.1958.
4. According to the counsel for the petitioner, the issue involved in the present writ petition has already been settled by this Court in the case of "Mithilesh Sharma vs. SECL" WP No. 2157/2002 decided on 18.08.2008, the said judgment has also been affirmed by the Division Bench of this High Court in W.A. No. 246/2008, decided on 31.03.2010 and the two judgments were further put to test before the Hon'ble Supreme Court in SLP, which again stood dismissed on 20.08.2010.
5. The aforesaid factual matrix of the case is not disputed by the counsel for the respondents, however the only defense, which the counsel for the respondents intends to take is that the need for correction of date of birth arose on account of the fact that the petitioner would be getting a total service of more than 42 years and

under that circumstances it has to be presumed that the petitioner was a minor at the time of his appointment which otherwise could not have been and therefore the respondents have taken the step.

6. Be that as it may, the same was the stand, which the respondents had taken in the aforementioned judgment of “Mithilesh Sharma” (supra) therefore this Court is not inclined to accept the said contention and the stand taken by the respondents.
7. Given the aforesaid factual matrix of the case and also taking note of the judgment passed by this Court in the case of “Mithilesh Sharma” (supra), which has been upheld by the Appellate Court as well as by the Hon’ble Supreme Court, the present writ petition also deserves to be and is accordingly allowed in the similar terms. The impugned orders Annexure P/1 & P/2 deserve to be and are accordingly quashed in similar terms. The petitioner’s date of birth has to be accepted to be that of 14.11.1960 instead of 14.11.1958 and the petitioner would be permitted to continue in service accepting his date of birth for superannuation to be taken as 14.11.1960.
8. The writ petition stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge