

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.23431 OF 2007

ORDER:

1. This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to and connected with proceedings in reference No.MMR/MK4/P/13/210, dated 10.1.2007; to quash the same and consequently, to direct the 1st respondent-authority to continue the petitioner on par with other employees with all consequential benefits till attaining the age of superannuation of 60 years i.e., till 31.7.2011.

2. Heard Sri P. Venkatswamy, learned Counsel for the petitioner and Sri Nandigam Krishna Rao, learned Counsel for the respondents.

3. It is the case of the petitioner that he was appointed as Badli Pillar on 9.1.1972 in the 1st respondent-office and he furnished all the required certificates including the proof of date of birth certificate i.e., transfer certificate issued by the Head Master, Zilla Parishad High School, Challoor and he was also subjected to medical tests. In the year 1981, he appeared for Short Firers Test under coal mines

regulation and he fulfilled all the formalities by producing the evidence of his age, medical fitness, good character, literacy and experience in short firing, and he successfully passed oral examination of knowledge and ability held at MVTC, Mandhamarri on 28.4.1981. A short firer certificate was issued by the Chairman of the Board of Mining examinations on 20.5.1981. He appeared for Sardar examination on 13.1.1982. The Chairman of Board of Mining Examinations issued certificate on 10.5.1982. In both the certificates, his date of birth was shown as 6.7.1951. On 1.12.2000 when he was promoted, he was subjected to medical examination, and the medical officer issued a certificate certifying the date of birth of the petitioner as 6.7.1951. While so, the 1st respondent issued a letter, dated 28.12.2001, stating that necessary corrections in the age entry in the company records have to be taken up as per the SSC certificate. The petitioner was also directed to appear before the age determination committee along with SSC original certificate on 3.1.2002. Accordingly, the petitioner attended along with his transfer certificate to prove his date of birth. The authorities concerned verified the certificates. But they did not give any information with regard to his age. While so, having

come to know that his age was entered as 25 years as on the date of his entry into the service, he requested the 1st respondent to correct his date of birth. But the 1st respondent through proceedings dated 21.6.2006 informed that the Area Age Determination Committee confirmed his date of birth on 3.1.2002, as 25 years as on 9.1.1972, and the age assessed by the Age Determination Committee stands final. The 1st respondent issued advance intimation of retirement vide proceedings dated 1.1.2006 stating that the petitioner will retire from service from the company on 31.1.2007 and thereafter, the 1st respondent issued retirement order dated 10.1.2007. Aggrieved by the same, the present writ petition is filed.

4. The learned Counsel for the petitioner contended that in the service book at page Nos.29 to 33 the date of birth of the petitioner was written as 6.7.1951 and subsequently, it was rounded off and mentioned as if the petitioner was aged about 25 years as on 9.1.1972 and the said correction was made by the respondents without putting the petitioner on notice and that the respondents are accepting that there are SSC and TC certificates and they are under their custody, and therefore, the opinion of the

committee is not necessary in the instant case and that the date of birth mentioned in the certificates would clearly show the date of birth of the petitioner as 6.7.1951 and therefore, the pre-mature retirement of the petitioner vide the proceedings impugned is liable to be quashed.

5. The learned Counsel for the respondents contended that the petitioner attained the age of superannuation as per the service records and he retired from service with effect from 1.2.2007 and all the terminal benefits were settled in favour of the petitioner and paid to him. He further contended that since the petitioner did not submit his educational qualification certificate or date of birth/documentary proof at the time of his appointment, his age was assessed by the Colliery Medical Officer as 25 years as on 9.1.1972 and the same became final. He further contended that the petitioner filed representations before the respondents at the fag end of his service and his approach is not bonafide one and therefore, the writ petition is liable to be dismissed.

6. This Court has considered the rival submissions made by the parties and the material available on record. From the material on record, it is obvious that at the time of

recruitment, the petitioner was subjected to medical examination and in that examination, the age of the petitioner was assessed as 25 years as on 9.1.1972.

7. Perusal of the service records of the petitioner discloses that his date of birth was entered as 25 years as on 9.1.1972. In the top of the said service register, the date of birth of the petitioner was hand written as 6.7.1951. The said date of birth, which was handwritten at the top of the service register, was not filled up in the column specified for mentioning the date of birth. But over the name of the petitioner, the date of birth was handwritten and rounded off. It is very difficult to adjudicate as to who made those corrections in the service register. But it is evident that the age of the petitioner was recorded as 25 years as on 9.1.1972 in the appropriate column where the age particulars were to be recorded. The revised date of birth i.e., 6.7.1951 was recorded above page No.2 of the service record in the space above the pagination i.e., at page No.2, which would mean that the date of birth was entered subsequently as 6.7.1951 and the same was rounded off. No illegality has been pointed out by the petitioner to demonstrate that the date of birth of the

petitioner was corrected from 6.7.1951 to 9.1.1947 by the respondents. The petitioner made a claim seeking correction of date of birth, that too at the fag end of his services.

8. Having regard to the above circumstances, this Court is of the view that the respondents have rightly referred the case of the petitioner to the age Determination committee and the age Determination committee has come to a conclusion that the petitioner has attained the age of superannuation during 2007 and accordingly, the respondents had retired the petitioner. There was no illegality on the part of the respondents in retiring the petitioner in the year 2007 as per the date of birth maintained by the respondents. There are no merits in this writ petition.

9. Accordingly, the Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

(ABHINAND KUMAR SHAVILI, J)

Dated: 23rd November, 2018
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Dated: 23.11.2018

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