

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 29419 of 2010

Date : 25.1.2018

Between :

Nalla Santhaiah S/o Venkaty
56 years
GDK 8 A incline, Godavarikhani
Karimnagar district

Petitioner

And

Singareni Collieries Company Ltd
Rep by its Managing Director at Kohagudem,
Khammam district and others

Respondents

The Court made the following:



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ORAL ORDER:

No representation for petitioner. Heard Mr Nandigam Krishna Rao learned standing counsel for respondent company.

2. Facts on record would disclose that petitioner joined service of the respondent company on 10.10.1975 as Badli Filler. At the time of his retirement, he was working as Coal Filler. Petitioner was retired from service with effect from 30.11.2010. In this writ petition, petitioner challenges order dated 14.12.2009 informing that as per the assessment made by the Apex Medical Board he was found to have aged 59 years as on 20.11.2009 and order dated 4.10.2010 informing that he would be retiring from service on 30.11.2010.

3. According to petitioner he was referred to the Area Age Determination Committee for determination of the correct age in the year 2005. The Committee assessed his age as 53 years as on 15.4.2005. In terms of the said assessment petitioner is entitled to continue in service till end of April 2012. Petitioner therefore contends that it was illegal to refer him again for medical examination to the Apex Medical Board to determine his age. He would submit that respondents acted contrary to their own circular dated 3.1.2003 referring petitioner to Apex Medical Board. He further contends that no notice was issued to him before referring him to Apex Medical Board. At any rate, according to petitioner, such reference ought not to have been made after four years of earlier determination of age.

4. Learned standing counsel submits that at the time of entry into the employment, as petitioner was illiterate, he was referred to Medical Officer for assessment of his age. The assessment was made on 8.9.1975 assessing his age as 26 years. Therefore same was recorded in the service book. In terms thereof, he has to retire from service on 8.9.2009. Later it was noticed that the entry of date of birth was

corrected and his age was shown as 24 years as on 4.6.1978. No record is available as to how such assessment was made in 1978 and under what authority such correction was made. In view of the discrepancy in the date of birth entry in the service record, he was referred to Area Age Determination Committee to assess his age. The Committee determined the age of the petitioner as 53 years as on 15.4.2005. No doubt, in terms of such determination of the age, petitioner is entitled to continue up to end of April, 2012 but a vigilance enquiry was conducted into the age determinations carried out between 2003 and 2007; during which period 700 employees' age determination was carried out. On through review of the age determination exercise undertaken during the above period, the Vigilance department of the respondent company found that in 150 cases, there were some discrepancies and therefore, sought review of those cases. He would therefore submit that the 150 cases which include the case of the petitioner were referred to the Apex Medical Board. Notice was given to the petitioner to appear before the Apex Medical board. Petitioner accordingly appeared on 20.11.2009. After conducting the assessment of the age of the petitioner, the Apex Medical Board assessed the age of the petitioner as 59 years. Same fact was informed to the petitioner vide letter dated 14.12.2009. Learned standing counsel submits that petitioner kept quiet till fag end of his service and at the last minute invoked the jurisdiction of this Court. Such delayed claim should not be accepted.

5. The facts as briefly noted above would show that initially date of birth of petitioner was recorded as 26 years and later corrected as 24 years. In view of this discrepancy, petitioner was referred to Area Age Determination Committee. Respondents do not dispute the fact of determination of the age of the petitioner as 53 years as on 15.4.2005. However, as contended by learned standing counsel, there were some discrepancies noticed in the assessment of the age by the Area Age Determination Committee during the period 2003 to 2007 including the

case of the petitioner. Therefore they referred the age assessment to Apex Medical Board. Petitioner appeared before the Medical Board and participated in the assessment exercise. Having participated in the assessment exercise, petitioner cannot now turn-around and say that petitioner ought not to have been referred to the Apex Medical Board and assessment made in the year 2005 ought to have been accepted. In ordinary course, the repeated assessments may not be valid. In the case on hand, respondents justify second assessment by the Apex Medical Board on the ground that certain discrepancies were noticed by the Vigilance Department, therefore it was necessary to re-assess cases of some employees where assessment was found to be defective. I therefore see no error in the exercise undertaken by the respondents in subjecting the petitioner to assessment of the age by the Apex Medical Board. Except for contending that the assessment made by the Area Determination Committee in the year 2005 ought to have been accepted, no substantive material is placed on record to disprove the assessment made by the Apex Medical Board and to say that petitioner's age was not 59 years but he is younger to what was determined.

6. Petitioner though received the proceedings dated 14.12.2009 assessing his age as 59 years as on 20.11.2009, kept quiet and instituted this writ petition only after he received the further notice dated 4.10.2010 which is few days before his date of retirement. In **Sundilla Lingaiah Vs Singareni Collieries Company Limited**¹, this Court pointed out that such delayed writ petitions filed few days prior to retirement should not be entertained. Thus, on this ground also, petitioner's claim fails. Accordingly, the writ petition is dismissed. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE:25.1.2018

¹ 2016 (4) ALT 407

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