

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.24423 OF 2002

ORDER:

1. This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to and connected with I.D.No.7 of 2001 on the file of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad; to quash the award dated 29.4.2002 passed therein and consequently, to direct the 1st respondent-management to correct the age of the petitioner as 6.1.1952 instead of 26.5.1945 in the records and continue him in service as per the corrected date of birth with all consequential benefits.
2. Heard Sri B.G. Ravindra Reddy, learned Counsel for the petitioner and Sri J. Sreenivasa Rao, learned Standing Counsel for the 1st respondent.
3. It is the case of the petitioner that he was appointed in the 1st respondent-company in the year 1978 and at the time of his appointment, he was sent for medical examination. However, no information was given to him as to his age assessed by the Medical Officer. As he had no knowledge about the official procedure, he submitted all the relevant information including his date of birth at the time of

his appointment. He worked continuously without any complaints. Subsequently, in the year 1984, he came to know that his date of birth was recorded as 26.5.1945 i.e., 33 years as on the date of his appointment in the company. The petitioner asked to correct the date of birth and produced his transfer certificate, in which his date of birth was mentioned as 6.1.1952. But no steps were taken by the management of the 1st respondent-company to correct the date of birth of the petitioner, and thereafter, the matter was placed before the Conciliation Officer. The conciliation talks failed as the management of the 1st respondent-company refused to correct the date of birth of the petitioner. As the failure report was not referred to the Tribunal, the petitioner filed W.P.No.5084 of 1993 before this Court and the said writ petition was allowed on 29.8.2000. Thereafter, the Central Government referred the matter to the Tribunal. The Tribunal passed the impugned award referring the case of the petitioner to the Apex Medical Board of the company, which consists of the General Manager of the Company, Welfare Officer of the company, General Manager (Personnel) and the Chief Medical Officer of the company. Aggrieved by the same, the petitioner filed this writ petition.

4. Learned Counsel for the petitioner contended that at the time of his appointment, though he was sent to medical examination, no details were furnished him as to his date of birth and subsequently, he came to know that his age was not correctly recorded and that the Tribunal has failed to adjudicate the issue in question and that the Tribunal should not have referred the issue to the said Apex Medical Board, which consists of the officers of the company and that the Tribunal ought to have referred the issue to an independent body of Medical experts such as Government Hospitals.

5. Further, it is the contention of the learned Counsel for the petitioner that when the dispute was referred under Section 10(1)(d) of the Industrial Disputes Act, the Tribunal ought to have decided the said dispute instead of referring the case to the apex Medical Board and that the award passed by the Tribunal is contrary to law, and therefore, the same is liable to be set aside.

6. The learned Standing Counsel for the 1st respondent-company contended that the petitioner accepted his date of birth recorded in various records of the company and now, the petitioner cannot turn around and plead that the date of

birth recorded in the records is not correct and that the award passed by the Tribunal does not warrant any interference.

7. This Court has considered the rival submissions made by the parties and the material available on record. From the award impugned, it is obvious that there was no sufficient proof of the alleged date of birth of the petitioner viz., 6.1.1952 and therefore, his date of birth was assessed as 26.5.1945. However, taking into consideration the plea of the petitioner and the other evidence recorded in the I.D., the Tribunal referred the matter to the apex Medical Board. This Court is of the view that the Tribunal has rightly referred the case of the petitioner to the apex Medical Board, and rightly held that based upon the opinion of the apex Medical Board, necessary steps can be taken for correction of date of birth of the petitioner. The Tribunal has rightly exercised its power. The petitioner has not pointed out any illegality in the award passed by the Tribunal.

8. Further, it is pertinent to note that the Tribunal is not the authority to decide the date of birth of the petitioner. It is only the Medical Board, who can assess the correct age

of the petitioner based on the medical reports. Therefore, the contention of the petitioner that the Tribunal ought to have decided the issue instead of referring to the Medical Board cannot be accepted. 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.

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 23rd November, 2018.
Nn.



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23/11/2018

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