

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT APPEAL NO.1140 OF 2018

JUDGMENT: (per SK,J)

Singareni Collieries Company Limited (SCCL), represented by its Chief General Manager, Srirampur Area, Adilabad, and its General Manager (E&M), Srirampur Area, Adilabad, filed this appeal aggrieved by the order dated 05.01.2018 passed by a learned Judge of this Court allowing W.P.No.17293 of 2007. The said writ petition was filed by the first respondent herein (since deceased) aggrieved by the action of the SCCL in retiring him from service on 31.12.2006 instead of continuing him in service up to 31.12.2012. He sought a further direction to set aside the orders dated 27.10.2006 and 04.06.2007 and to pay all consequential benefits to him. Upon the death of the first respondent-1st writ petitioner, his legal representatives, being his widow and children, were brought on record as petitioners 2 to 5 in the writ petition, pursuant to the order dated 21.06.2010 passed in W.P.M.P.No.6318 of 2009 in W.P.No.17293 of 2007. By the order under appeal, the learned Judge directed the SCCL to treat the period from 31.12.2006 till 31.12.2012 as if the deceased-first respondent was in service and release all consequential benefits to his legal heirs.

Heard Sri J.Sreenivasa Rao, learned counsel for the SCCL, and Sri Kuriti Bhaskara Rao, learned counsel for the legal representatives of the deceased-first respondent, who are shown as respondents 2 to 5.

By proceedings of the Area Age Determination Committee dated 21/22.09.2006, the age of the deceased-first respondent had been confirmed as 25 years as on 14.12.1971. It appears that the decision of

the Area Age Determination Committee was accepted by the deceased-first respondent. This aspect is however disputed by Sri Kuriti Bhaskara Rao, learned counsel. He asserts that the deceased-first respondent was a marksman and could not sign in English but the SCCL maintained the Service Register showing his signatures in English and so is the case with the so-called acceptance of the proceedings of the Area Age Determination Committee dated 21/22.09.2006.

Perusal of the order under appeal demonstrates that the learned Judge took note of the fact that after receiving the prior intimation dated 27.10.2006 informing him that he would be retiring from service on 31.12.2006, the deceased-first respondent filed W.P.No.25354 of 2006 and that the same was disposed of on 12.02.2007 directing the SCCL to place his duplicate SSC record before the Age Determination Committee so that a fresh decision could be taken in the matter. It is pursuant to this order that the General Manager, Srirampur Area, Adilabad, passed the subsequent order dated 04.06.2007 confirming the retirement of the deceased-first respondent on 31.12.2006. However, the learned Judge held that as the deceased-first respondent had produced his SSC record certifying that his date of birth was 07.09.1952, the finding of the General Manager, Srirampur Area, to the effect that the deceased-first respondent was 25 years of age as on 14.12.1971, making 14.12.1946 his date of birth, could not be sustained.

Perusal of the order dated 04.06.2007 passed by the General Manager, Srirampur Area, Adilabad, demonstrates that after this Court passed the order dated 12.02.2007 in W.P.No.25354 of 2006, the case of the deceased-first respondent was reviewed by the Area Age Determination Committee on 29.03.2007 and upon verification of his

educational certificates and based on his service record, physical appearance and clinical tests, the Committee confirmed that his age was 25 years as on 14.12.1971.

It may be noted that the Area Age Determination Committee seems to have given no credence to the SSC record of the deceased-first respondent. We therefore called upon Sri Kuriti Bhaskara Rao, learned counsel, to produce the said record before us. The duplicate Secondary School Certificate, in original, issued by the Board of Secondary Education, Andhra Pradesh, was thereupon produced and it demonstrates that the Additional Joint Secretary, Board of Secondary Education, Andhra Pradesh, issued the same on 06.12.2006 with endorsements thereon by the Head Master, C.S.I. High School, Bellampalli, Adilabad. For good measure, the photograph of the deceased-first respondent at the time of issuance of this duplicate certificate was also affixed thereon.

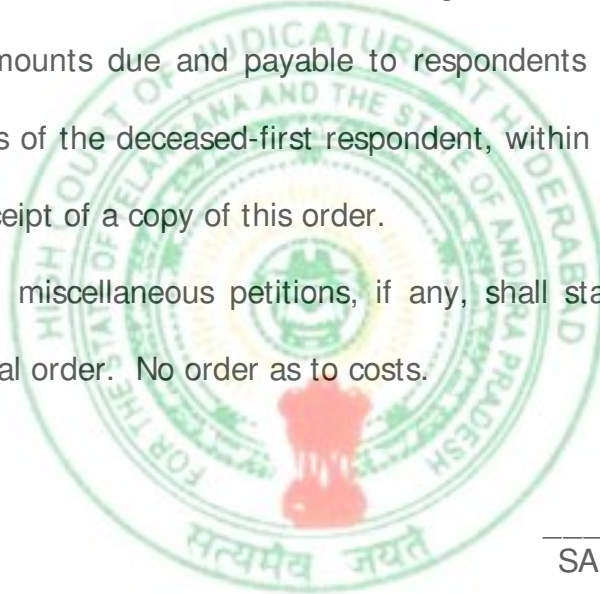
This certificate manifests in no uncertain terms that his date of birth was noted in his school records as 07.09.1952. As the authenticity of this duplicate Secondary School Certificate cannot be doubted, the Area Age Determination Committee ought to have given more value to it.

That being said, we are of the opinion that merely because the deceased-first respondent was made to retire prematurely, he cannot be granted all consequential benefits despite the fact that he did not render any actual service to the SCCL thereafter. Grant of monetary benefits for this period would therefore be wholly unjustified. It may also be noted that the deceased-first respondent met with his death on 21.01.2009 long before his actual date of retirement, i.e., 31.12.2012. Therefore, in any event, he cannot be given benefits up to 31.12.2012, as directed by the learned Judge.

Given the totality of the aforestated circumstances, we are of the opinion that though the deceased-first respondent would not be entitled to any actual monetary benefits from 31.12.2006 to 21.01.2009, the said period should be taken into account for the purpose of computing his pensionary and death benefits. This is because the SSC record proves beyond doubt that the deceased-first respondent was made to retire from service prematurely by the SCCL, ignoring the date of birth entered therein.

The writ appeal is accordingly disposed of modifying the order under appeal to that effect. The SCCL shall give effect to this order and release the amounts due and payable to respondents 2 to 5, the legal representatives of the deceased-first respondent, within eight weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.



SANJAY KUMAR,J

M.GANGA RAO,J

Date:03.10.2018

GJ