

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 34189 of 2018

Date : 25.9.2018

Between:

Smt Ganamalla Kalavathi W/o Shankar Singh Age 53 years  
Occ Pump Operator EC No 0272364 in Main Workshop  
Kothagudem Corporate Area Singareni Collieries Company  
Limited R/o H No 9140 Babe Camp Kothagudem Town  
Bhadradri Kothagudem District

Petitioner

And

M/s Singareni Collieries Company Limited  
At Kohtagudem Badhradri Kothagudem District Rep by its  
Chairman and Managing Director & others

Respondents

The Court made the following:



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ORAL ORDER:

Petitioner was provided employment on compassionate grounds in the year 1981 due to death of her husband. At the time of entering into service, petitioner's age was assessed as 22 years and the date of birth was arrived at as 20.3.1959. The petitioner was served with notice dated 11.7.2018 informing that she would be attaining the age of superannuation on 20.3.2019 and would retire from service on 31.3.2019. Aggrieved thereby this writ petition is filed.

2. Heard learned counsel for petitioner and learned standing counsel for respondent company.

3. According to learned counsel for petitioner, at the time of entering into service, the declaration given by the petitioner was not accepted and illegally wrong date of birth was entered treating her age as 22 years and sought to be retired from service far earlier to actual date of attaining the age of superannuation. Petitioner's date of birth is 20.12.1964. Petitioner being an uneducated person, ought to have been subjected to medical examination by considering her request for redetermination of date of birth and could not have straight-away issued notice of retirement.

3.1 Learned counsel placed reliance on date of birth written on duplicate copy of the family data book as 20.12.1964 to contend that even according to their own assessment, date of birth of petitioner is 20.12.1964, therefore, petitioner could not be retired from service before 31.12.2014.

4. Form-O report of Medical Examination under Rule 22B is enclosed as Ex.P-5. On reading of first paragraph of Form-O, it is seen that examining authority determined her age as 22 years and this finding was recorded on 20.3.1981. 22 years as on 20.3.1981 would relate to the date of birth as 20.3.1959. In the year 2012, vide proforma dated 12.12.12 petitioner was informed that in the service record her date of birth is recorded as 20.3.1959, therefore, she would attain the age of superannuation on 31.3.2019. On an application made by the petitioner on 10.2.2016 to correct entry of date of birth in service record, petitioner was informed by proceedings dated 8.3.2016 that her request for correction of date of birth cannot be accepted. Thus, at various points of service, petitioner was informed of the date of birth entry made in service record. Though, the learned counsel for petitioner sought to contend that date of birth of petitioner is written as 20.12.1964 on the top of page of Form-O, however, it is not stated as to who has written it, whereas the assessing authority clearly recorded the age of petitioner as 22 years and same is reflected in the service record.

5. As date of birth was recorded in the service record in the year 1981 and same fact has been intimated to petitioner on more than one occasion, merely because a notice was issued to her on 11.7.2018 informing that she would be attaining the age of superannuation on 31.3.2019 cannot give rise to fresh cause of action for petitioner to contend that wrong date of birth is entered and same should be corrected.

6. The principle of law is well settled that once date of birth is recorded in the service record, unless sufficient material is produced before the employer soon thereafter for correction of date of birth,

employee cannot be permitted to seek correction of date of birth, more so, at the fag end of service.

7. The judgment relied upon by the learned counsel for petitioner does not come to the aid of the petitioner. In the said case, as can be seen from the opening paragraph of the judgment, the company abruptly proposed to retire petitioners therein on the ground that they have attained the age of superannuation and in those circumstances, Court directed to conduct medical examination to determine the age. In the instant case, as noticed above, as early as in the year 2012, petitioner was informed about the date as recorded in service record and in the year 1981 when petitioner joined her age was assessed as 22 years and same is recorded. No case is made out for consideration of the issue at this stage.

8. The issue of delay in claiming correction of date of birth was considered by this Court in **SUNDILLA LINGAIAH Vs. SINGARENI COLLIERIES COMPANY LTD**<sup>1</sup>, The said writ petition was instituted one year after notice of retirement was issued and this Court dismissed the writ petition on that ground. On review of entire case law on the subject, this Court also made observations as under:

“13. Before parting with the judgment, this Court deems it apposite to observe that the attitude and tendency of approaching the Courts for correction of Date of Birth and for further continuation in service, at the fag end of the service is on higher side in recent times when compared to past. In some deserving cases, such people are emerging successfully also. But there must be proper check and thorough verification of the claims, touching the alteration of date of birth, otherwise the same would be a burden on the State exchequer and the belated claims shall not be entertained. While considering the claims for correction of Dates of Birth, it is also incumbent and obligatory on the part of the authorities to simultaneously examine the

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<sup>1</sup> 2016 (4) ALT 407

corresponding age of the claimants at the time of passing the examinations such as Seventh Class, Tenth Class etc., also and their relevant eligibilities pertaining to the age, unless the same being exempted by competent authority, as on the date of such examinations. If any claimants are permitted for such examinations without the prescribed age, in the absence of such exemption of age granted by the competent authority, the same shall be a relevant criteria and factor for examining the claims for alteration of Date of Birth.”

9. Thus, I see no merit in the writ petition and the same is accordingly dismissed. No costs. Miscellaneous petitions, if any pending, are closed.

DATE: 25-09-2018  
TVK

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P NAVEEN RAO,J



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