

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 39678 of 2018

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring the notice dated 06.09.2018 insofar as petitioner is concerned retiring prematurely w.e.f. 20.10.2018 based on imaginary date of birth as 01.07.1950 without following any reasonable procedure to ascertain correct date of birth through medical examination or any other appropriate procedure, since the petitioner is uneducated, as illegal and arbitrary. A consequential relief is also sought to set aside the notice dated 06.09.2018 and continue the petitioner in service as NMR gang mazdoor till he attains the age of retirement.

Heard Sri Ch. Venkat Raman, learned counsel for the petitioner, and learned Government Pleader for services-III appearing on behalf of the respondents.

It has been contended by the petitioner that he was appointed as Mazdoor with the respondents on 27.07.1991, and while he was discharging his duties, the respondents have issued a notice on 06.09.2018 proposing to retire him prematurely with effect from 20.10.2018. It has also been contended that he may be subjected to medical examination and based upon the medical report, he may be continued in service. His grievance is that the respondents have

erroneously entered his date of birth in the service register and issued the said notice without any basis.

Learned counsel for the petitioner has submitted that a similar issue fell for consideration before this Court in W.P.No.37518 of 2018 and this Court disposed of the said writ petition on 11.10.2018 with the following observation:

“Accordingly, the writ petition is disposed of directing the respondents to continue the petitioners in service and send the petitioners to Osmania General Hospital for medical examination to assess their age and based upon the opinion of the medical board, the respondents are further directed to take a proper decision. The entire exercise shall be completed within a period of two months from the date of receipt of a copy of this order. The petitioners would bear the medical expenses. No order as to costs.”

and prayed that similar orders may be passed in the writ petition.

Learned Government Pleader for the respondents has not disputed the submission made by the learned counsel for the petitioner. However, he has contended that the petitioners in W.P.No.37518 of 2018 have approached this Court before their retirement from service, but in the instant case, the petitioner has already retired from service and, therefore, the question of issue of mandamus does not arise.

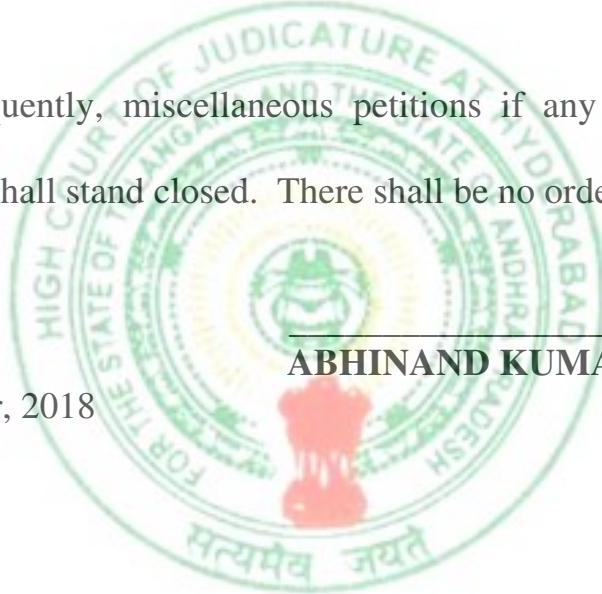
This Court having considered the submissions made by the parties is of the considered view that the writ petition can be disposed of with a direction to the respondents to send the petitioner to Osmania General Hospital for medical examination to assess his age.

Accordingly, the writ petition is disposed of directing the respondents to send the petitioner to Osmania General Hospital for medical examination to assess his age and based upon the opinion of the medical board, the respondents are further directed to take a proper decision. The entire exercise shall be completed within a period of two months from the date of receipt of a copy of this order. The petitioner would bear the medical expenses. However, this Court cannot direct the respondents to continue the petitioner in service, because he has already retired from service.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand closed. There shall be no order as to costs.

2nd November, 2018
cbs

ABHINAND KUMAR SHAVILI, J



HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No. 39678 of 2018
(disposed of)

2nd November, 2018

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