

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 6340 of 2019**

Rukhmani Devi W/o Late Rameshwar B.P., Aged About 48 Years
Working As Aaya At Dispensary, Area Headquarter, S.E.C.L. Raigarh
Area, District Raigarh, Chhattisgarh

---- Petitioner**Versus**

1. South Eastern Coalfields Ltd. Through Its Chairman-Cum-Managing Director, S.E.C.L. Headquarter, Seepat Road, Bilaspur, Chhattisgarh
2. General Manager, South Eastern Coalfields Limited, Raigarh Area, District Raigarh, Chhattisgarh
3. Chief Manager (P) / Area Personnel Manager, South Eastern Coalfields Limited, Raigarh Area, District Raigarh, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Amit Kumar Chaki, Advocate.
For Respondents	:	Mr. K. K. Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****21.08.2019**

1. The challenge in the present writ petition is the date of birth of the petitioner entered in her service record.
2. The facts of the case are that the petitioner got an employment on compassionate basis on the death of her husband who was working as Category-IV DC Operator and died in harness on 21.08.1997. The petitioner thereafter submitted her claim for dependent employment and the respondents considered and granted dependent employment

to the petitioner. At the time of appointment, since the petitioner did not produce any relevant records or documents to prove her date of birth, the Department, as per the requirement of the provisions of the Mines Act, sent the petitioner for medical examination to determine her age. The Doctor, after due examination of the petitioner, gave a report vide Annexure P-4 dated 27.11.1997 that on 27.11.1997 when the petitioner was examined, she appeared to be aged between 30-35 years. Accepting the said medical report, the Department accepted the age of the petitioner on the date of appointment as 32 years and entered her date of birth as 28.11.1964. The petitioner by virtue of the same got her appointment vide order dated 03.07.1998. From 1998 till 2019 the petitioner does not seem to have any grievance so far as the erroneous date of birth is concerned. Now the petitioner is claiming for a change in her date of birth based on a school admission certificate Annexure P-1 which the petitioner has obtained in January, 2019.

3. So far as the procedure for determination of age of an employee under the respondents is concerned, the same is governed under the policy of II - 76 which is also known as Implementation Instruction No.76. Clause-A of II - 76 deals with how to determine the age at the time of appointment. There are 4 categories of persons specified so far as determining the age is concerned. First category persons are those who are matriculates. Second category persons are those who are non-matriculates but educated. Third category persons are those who are ex-servicemen and who have worked in any of the armed services. The 4th category is in respect of the people who do not fall

in any of the aforesaid three categories. The procedure prescribed for such category is as under:

“iv) In the cases of appointees not covered under the foregoing causes, the date of birth will be determined by the Colliery Medical Officer keeping in view any documentary and other relevant evidence as produced by the appointee. Date of birth as determined shall be treated as correct date of birth and the same will not be altered under any circumstances.”

4. It is also settled position of law that the date of birth entered in the service book has not to be lightly interfered with. The date of birth can be interfered with only in a case where there is a glaring apparent mistake reflected in the date of birth so entered. Moreover, the correction can also be made only if there are strong, cogent and substantive materials in possession of the petitioner or the employee. In the instant case, except for a document which the petitioner has obtained in January, 2019, there does not seem to be any dispute ever raised by the petitioner in this regard nor was there any dispute raised when the appointment was granted and when her date of birth was accepted as 32 years after the medical examination of the petitioner.
5. Under the circumstances, this Court does not find any strong case made out by the petitioner calling for an interference at this juncture.
6. The writ petition thus fails and is accordingly rejected.

Sd/-
P. Sam Koshy
Judge