

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.2772 OF 2019

ORDER

This writ petition is filed seeking the following relief:

“...to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the proceedings issued by respondent No.5 vide Ref.No.MNG/PK.OC-II/W-14/1593, dated 24-03-2018 in intimating the petitioner that he is retiring from service with effect from 01-04-2019 on attaining the age of superannuation by mentioning the wrong date without verifying the documentary evidence that the date of birth of the petitioner is 06-09-1959, even though the respondents themselves earlier issued the proceedings stating that the petitioner is retiring from service on 06-09-2019 as illegal, arbitrary, abuse of process of law, violation of principles of natural justice and contrary to rules and against their own proceedings and records and set aside the proceedings issued by the 5th respondent vide Ref.No.MNG/PK.OC-11/W-14/1593, dated 24.03.2018 by further directing the respondents to continue the petitioner in service till his actual retirement date i.e., till September, 2019 in the interest of justice and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard Sri S.Surender Reddy, learned counsel appearing for the petitioner and Sri J.Sreenivasa Rao, learned Standing Counsel appearing for the respondents.

It is the case of the petitioner that he studied upto 8th Class. His actual date of birth is 6.9.1959 and the same is recorded in the school records. Initially, he was appointed as Badli worker on 13.6.1993 in the respondent-company and the respondents have recorded his date of birth as 6.9.1959.

Learned counsel appearing for the petitioner contends that without taking into consideration the documentary evidence, the respondents have issued a retirement notice on 24.3.2018 to the effect that the petitioner would be retiring from service with effect from 01.04.2019; that action of the respondents in trying to retire the petitioner six months prior to his actual date of birth, is contrary to the record; that appropriate orders be passed directing the respondents to continue the petitioner in service till he attains the age of retirement i.e., till the end of September, 2019, by setting aside the impugned notice dated 24.3.2018.

Learned Standing Counsel appearing for the respondent-Corporation contends that at the time of his initial appointment, the petitioner has not produced any certificate; that the age of the petitioner was assessed by the Medical Officer, who, assessed the age of the petitioner as 24 years as on 13.6.1983 and the same is reflected in the service record of the petitioner; that as per the Rules, if the petitioner has any grievance with regard to the entry of his date of birth, he should have requested the respondents to refer his case to the Age Determination Committee and the Age Determination Committee would have examined the case of the petitioner, but, in the instant case, the petitioner never raised any

grievance; that when the respondent-Company issued the retirement notice, he filed the present writ petition at the fag end of his service for correction of his date of birth; that the respondents have rightly issued the retirement notice on 24.03.2018; and that there are no merits in the writ petition and the same is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Writ Petition is disposed of directing the respondent-Corporation to refer the case of the petitioner to the Age Determination Committee to resolve the issue with regard to his date of birth within a period of two months from the date of receipt of a copy of this order and if the Age Determination Committee determines the date of birth of the petitioner as 06.09.1959, then the petitioner would be entitled for all consequential benefits such as continuation of service upto the end of September, 2019. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

28th March, 2019
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