

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.38184 of 2018

ORDER :

This writ petition is filed seeking Writ of Mandamus declaring the impugned proceedings of the 3rd respondent vide Ref.No.APA/ALP/W28/2018/1151, dated 22.01.2018 intimating the petitioner that he has to retire from service with effect from 28.02.2019 on the ground that he is attaining the age of superannuation of 60 years as on 02.02.2019, as arbitrary, illegal and contrary to law, and consequently sought a direction to the respondents to continue the petitioner in service till he attains the age of superannuation i.e., 60 years as on 04.03.2022.

It is the case of the petitioner that he was initially appointed as Badili Filler in 1993, subsequently promoted as General Mazdoor in 1994 and presently he is working as Cableman/Cable Boy. At the time of his appointment, the respondents have incorrectly entered his date of birth as 02.02.1959, while his correct date of birth is 04.03.1962. The petitioner submits that in the VII Class Common Examination Board Certificate, it was clearly stated that the date of birth of the petitioner is 04.03.1962. The petitioner has appeared for SSC Examination, but he could pass the same. The Transfer Certificate issued by the School where the petitioner had studied also reflects the date of birth of the petitioner as

04.03.1962. The petitioner submits that at the time of his appointment, he has submitted the Certificates issued by the School authorities and also the VII Class Common Examination Board Certificate. In spite of submitting the relevant certificates to the effect that his date of birth is 04.03.1962, the respondents have erroneously entered his age as 25 years as on the date of his appointment and based on the said incorrect entries entered in the Service Record, the respondents have issued the impugned retirement notice dated 22.01.2018 seeking to retire him with effect from 28.02.2019, instead of retiring him from service on 04.03.2022, on attaining the age of superannuation. Hence the present writ petition.

Heard Sri V. Sree Ranga Rao, learned counsel for the petitioner and Sri J. Srinivasa Rao, learned Standing Counsel for the respondents – Singareni Collieries Company Limited.

Learned counsel for the petitioner contends that since the date of birth of the petitioner is 04.03.1962, the petitioner is entitled to be continued in service till 04.03.2022 and that the action of the respondents in trying to retire the petitioner prematurely even before he attains the age of superannuation of 60 years, is arbitrary and illegal and contends that appropriate orders be passed in the writ petition directing the respondents to continue the petitioner till he attains the age of superannuation on 04.03.2022 as per the date of birth entered in the School certificates.

On the other hand, learned Standing Counsel for the respondents had submitted that the petitioner never raised any dispute in respect of his date of birth all through his career. Even after issuance of retirement notice by the respondents vide proceedings dated 22.01.2018 also, the petitioner has not raised any dispute and it is only at the fag end of his career, the petitioner has filed this writ petition seeking correction of his date of birth and for his continuation in service till the end of March, 2022. It is further contended that since the petitioner has approached this Court belatedly at the fag end of his career, no interference is called for and the writ petition is liable to be dismissed.

Learned Standing Counsel for the respondents, however, contends that as per the rules of the respondents Company, there is a Age Determination Committee and the case of the petitioner be referred to the said Committee, which will examine the case of the petitioner and pass appropriate orders before the petitioner is relieved of his duties.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that this writ petition can be disposed of directing the respondents to refer the case of the petitioner to the Age Determination Committee and on such reference, the Age Determination Committee shall examine the case of the petitioner and pass appropriate orders before 28.02.2019. It is

needless to mention that if the Age Determination Committee comes to a conclusion that the petitioner is entitled to be continued till end of March, 2022, the petitioner shall be allowed to continue based on the recommendations of the Age Determination Committee.

With the above observations, the writ petition is disposed of. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, in this writ petition shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

05.02.2019.
Msr

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