

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWPS No. 1207 of 2009

- Bholaram S/o Ram Narayan, aged about 49 years, working as Fitter Grade-B, South Eastern Coalfield Ltd. Bishrampur Area Surguja C.G.

---- Petitioner

Versus

1. South Eastern Coal Field Limited Through Chairman Cum Managing Director (Head Office) Seepat Road Bilaspur, C.G.
2. Deputy Chief Personnel Manager, Bishrampur-Area, South Eastern Coalfield Limited, Bishrampur, District Surguja C.G.
3. Personnel Manager, Bishrampur Area, Open Cost Mines South Eastern Coalfield Limited, Bishrampur, District Surguja, C.G.
4. Manager Mines Bishrampur Area, Open Cost Mines South Eastern Coalfield Limited, Bishrampur, District Surguja, C.G.

---- Respondents

For Petitioner	:-	Mr. N.K. Vyas, Advocate
For Respondents	:-	Mr. V.R.Tiwari, Advocate with Mr. Anis Tiwari, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

16/01/2020

1. Heard.

2. In this petition, under Article 226 of the Constitution, petitioner seeks quashment of the order Annexure- P/1 by which he has been informed about the findings of the report of Age Determination Committee (for short "ADC") and the consequences thereof. Petitioner has also prayed for a direction to reinstate him with full back wages and to allow him to work upto 2019 as per actual date of retirement.
3. Petitioner joined the services with the Respondent – SECL, (which term includes its predecessor interest) as category one Majdur on 01.01.1977. At the time of entry into service petitioner's date of birth was entered in the 'Form-B' as 18.12.1947. In 1997 petitioner received his pay slip mentioning his date of birth on which he submitted representation before the Management stating that his actual date of birth is 04.03.1959, which should be corrected. The representation was rejected vide Annexure-P/12 dated 12.10.2007, against which petitioner preferred WPS No.7052 of 2007. The said petition was disposed of by passing the following order:-

“1. With consent of learned counsel appearing for both the parties, the matter is heard finally.

2. Learned counsel appearing for the petitioner submits that the petitioner has made representations dated 18-10-1998, 2-1-2002 and 12-1-2003 to the respondents-authorities for correction of his dated of birth recorded in the service record, but the respondents-authorities have rejected the aforesaid representations by order dated 12-10-2007 without referring the matter to the Age Determination

Committee. Learned counsel further submits that the petitioner does not want to press his petition on merit, except that the matter may be referred to the Age Determination Committee, at the earliest.

3. Learned counsel appearing for the respondents submits that the prayer may be granted as the respondents are willing to refer the dispute to the Age Determination Committee.
4. In view of the above and according to Shri N.K. Vyas, learned counsel appearing for the petitioner, nothing survives in the matter.
5. Accordingly, this petition is disposed of.”

4. After the above order, petitioner was examined by the ADC and the report thereof confirmed that he appears to be plus 60 years of age. The ADC maintained his age/date of birth as 18.12.1947 as per 'Form-B', Signatory Register. After the report of the ADC the impugned communication has been served on the petitioner.
5. There being no interim order in this petition, petitioner has already retired in December, 2007.
6. It is argued on the basis of entry concerning petitioner's date of birth maintained in the Dakhil Kharij Register and Class 5th Mark-Sheet that his actual date of birth is 04.03.1959, therefore, the date of birth in the service record should have been corrected accordingly.
7. Per contra, learned counsel for the SECL would argue that dispute about the date of birth was raised at the fag end of

service which is not permissible in law. He would submit that in the first writ petition the prayer was confined to referring the petitioner to ADC and now the ADC has found petitioner's age to be near to the date of birth mentioned in the 'Form-B', therefore, there is no merit in the writ petition.

8. The 'Form-B' filled by the petitioner has been filed by the respondent as Annexure-R/2. The document has been signed by the petitioner, affirming that his date of birth is 18.12.1947. This document was prepared on 26.07.1987, thus even in 1987 the petitioner affirmed and stated before the Management of SECL that his date of birth is 18.12.1947. It is thus apparent that when the first occasion arose for raising a dispute about date of birth the petitioner instead of informing that his date of birth is 04.03.1959 affirmed otherwise that his date of birth 18.12.1947. The first objection was raised by him in 1997 i.e. after 20 years of entry into service. Moreover, in the first writ petition the prayer was confined to referring the petitioner for determining his age by the ADC. The arguments raised in this petition based on Class 5th certificate and Dakhil Kharij Register was not argued before this Court in the first writ petition.
9. The finding recorded by the ADC is on the basis of the opinion of experts by physically examining the petitioner

which cannot be questioned in this writ petition.

10. Considering the settled legal position that dispute regarding date of birth cannot be raised at the far end of service, at the time of retirement and also for the finding recorded by the ADC confirming petitioner's age to be about 60 years as in 2007 when he has been actually retired, no case for interference is made out in this petition.

11. Accordingly, the present writ petition is dismissed.

Sd/-
Prashant Kumar Mishra
Judge

Ankit