

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 864 of 2012**

Shobha Ram S/o Santoo Ram, Aged about 55 years,
R/o Village vidyadih, P.O. Sonioharsi, Distt.
Bilaspur, Chhattisgarh.

---Petitioner

Versus

1. South Eastern Coal Fields Ltd. Through its
Chairman cum Managing Director, SECL
Headquarters, Seepat Road, Bilaspur,
Chhattisgarh.
2. Director (Personnel), South Eastern Coal Fields
Ltd., SECL Headquarters, Seepat Road, Bilaspur,
Chhattisgarh.
3. General Manager (P & A), South Eastern Coal
Fields Ltd., SECL Headquarters, Seepat Road,
Bilaspur, Chhattisgarh.
4. Dy. General Manager (Mining), Rajendra Sub Area,
Sohagpur Area of South Eastern Coalfields Ltd. ,
P.O. Khairaha, Via Burhar, Distt. Shahdol, M.P.
5. Dy. General Manager (Personnel), Sohagpur Area of
South Eastern Coalfields Ltd. , P.O. Khairaha,
Via Burhar, Distt. Shahdol, M.P.
6. Personnel Manager, Rajendra U.G. Mine of Sohagpur
Area of South Eastern Coalfields Ltd., P.O.
Khairaha, Via Burhar, Distt. Shahdol, M.P.
7. Superintendent/Manager, Rajendra U.G. Mine of
Sohagpur Area of South Eastern Coalfields Ltd.,
P.O. Khairaha, Via Burhar, Distt. Shahdol, M.P.

---Respondents

For Petitioner :- Mr. M.K. Baig, Advocate

For Respondents :- Mr. Ghanshyam Patel, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

08/09/2021

1. By way of this writ petition, petitioner calls in question the notice of retirement dated 01/01/2010 (Annexure P/1) by which he has been retired with effect from 30/06/2010.

2. Mr. M.K. Baig, learned counsel for the petitioner, would submit that respondents/SECL is absolutely unjustified in holding petitioner's date of birth as 01/07/1950 on the basis of the report of the Age Determination Committee pursuant to the order passed by this Court in the earlier round of litigation, as such, it is absolutely illegal and without jurisdiction as the material document i.e. Higher Secondary School Certificate (10 + 2) examination marksheet issued by the Board of Secondary Education has to be considered while determining the correct date of birth of the petitioner, therefore, the impugned notice of retirement is liable to be set aside.

3. Mr. Ghanshyam Patel, learned counsel for the respondents, would submit that since the Higher Secondary School Certificate (10 + 2) examination marksheet has been issued by the Board of Secondary Education in the year 1992, i.e. after the date of petitioner's entry into service on 16/05/1976, therefore, it is not an earmarked document in accordance with Clause B(i)(a) of Implementation Instruction No. 76 and petitioner's date of birth has rightly been held as 01/07/1950 by the Age Determination Committee and accordingly, petitioner has rightly been retired on 30/06/2010.

4. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and went through the records with utmost circumspection.

5. In the first round of litigation, considering the dispute, the matter was referred to the Age Determination Committee by the respondents/SECL and by its report dated 13/10/2011 (Annexure P/4), the Age Determination Committee has clearly recorded the finding that though petitioner has filed the photocopy of his (10 + 2) examination marksheet containing his date of birth as

27/09/1956 but that cannot be accepted as the said marksheet has been issued in the year 1992 and petitioner entered into service on 16/05/1976, admittedly, the document has been issued after petitioner's entry into service, therefore, it is not an earmarked document as per Clause B(i)(a) of Implementation Instruction No. 76. Similarly, it is also been held that as per Form B Register, Service Book and service excerpts, petitioner's date of birth has constantly been recorded as 01/07/1950, as such, his date of birth is taken as 01/07/1950 and no correction can be made therein.

6. The finding recorded by the Age Determination Committee that petitioner's Higher Secondary (10 + 2) examination marksheet cannot be held to be valid or classified document for correction of petitioner's date of birth under Clause B(i)(a) of Implementation Instruction No. 76 as it is not an earmarked document, having been issued much after petitioner's entry into service, is a finding of fact based on material available on record. Similarly, on the basis of Form B Register, Service book and service excerpts, the Age Determination Committee has rightly reached

to the conclusion that petitioner's date of birth is 01/07/1950 and accordingly, he has rightly been retired on 30/06/2010.

7. The instant writ petition deserves to be and is accordingly dismissed. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet