

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 292 of 2011**

Jamuna Prasad Jaiswal S/o Late Ramsunder Jaiswal,
Occupation Driver, R/o Behind Water Tank, Ward No.
19, Tahsil Manendragarh, Distt. Korea,
Chhattisgarh.

---Appellant/Plaintiff

Versus

1. President-cum-Director South Eastern Coal Fields Limited, Seepat Road, Bilaspur, Distt. Bilaspur, Chhattisgarh.
2. South Eastern Coal Fields Limited, Through Chief General Manager, Hasdeo Area, South Jhagrakhand, Tahsil Manendragarh, Distt. Korea, Chhattisgarh.

--- Respondents

For Appellant :- Mr. Shaktiraj Sinha, Advocate
For Respondents :- None

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

16/02/2021

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellant/plaintiff under Section 100 of CPC against the impugned judgment and decree passed by the first appellate Court reversing the judgment

and decree by which learned trial Court decreed the suit.

2. Mr. Shaktiraj Sinha, learned counsel for the appellant/plaintiff, would submit that the first appellate Court is absolutely unjustified in reversing the judgment and decree passed by the trial Court by recording a finding which is perverse and contrary to the record as learned trial Court had rightly held that plaintiff's date of birth is 10/12/1949 which has erroneously been reversed by the first appellate Court, as such, the instant appeal be admitted for hearing by formulating substantial question of law in this regard.

3. Plaintiff, working as Driver-cum-Mechanic in the Regional Work Shop of SECL, Hasdeo Area, was appointed on 19/05/1976 and he has been retired from the said post on 01/01/2004, but according to him, his date of birth as recorded in several records is 10/12/1949 whereas the defendants, by making overwriting in the service record of the plaintiff, have mentioned his date of birth as 10/12/1943 due to which he has been retired from services six years prior to his original date of retirement, as such, he filed the suit that his date of birth be declared as 10/12/1949.

4. Learned trial Court, after appreciation of oral and documentary evidence on record, decreed the suit which was challenged by the defendants in the first appeal wherein learned first appellate Court reversed the findings recorded by the trial Court and allowed the appeal thereby dismissing the suit of the plaintiff.

5. Learned first appellate Court has categorically recorded a finding that during the time of appointment, plaintiff himself had submitted his date of birth as 10/12/1943 and in the entire service record (Ex. D/1 and D/3) it has been mentioned as 10/12/1943, as such, plaintiff's date of birth is 10/12/1943 which is a pure and simple finding of fact based on evidence available on record which is neither perverse nor contrary to the record. I do not find any merit in the instant appeal.

6. The second appeal, being devoid of merits, deserves to be and is accordingly, dismissed in limine without notice to the other side. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge