

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

FRIDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HON'BLE SMT JUSTICE JUVVADI SRIDEVI

WRIT PETITION NO: 12966 OF 2009

Between:

T. Rajanarasaiah,, S/o. T.Kumaraiah, Worked at SF C, SRP-1 Incline,
Singareni Collieries Company Ltd., Srirampur, Adilabad District.

...PETITIONER

AND

1. Singareni Collieries Company Ltd, Kothaugudem, Khammam District, Rep by its chairman and Managing Director.
2. The Chief General, Manager,, Singareni Collieries Company Ltd., Srirampur (Projects Area) Srirampur, Adilabad district.
3. The Supdt. of Mines,, SRP-1 Incline, Singareni Collieries Company Ltd., Srirampur, Adilabad District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ or order or direction, especially one in the nature of Writ of Mandamus-

i. declare the action of the 2nd and 3rd respondents in retiring the petitioner from service w.e.f. 31-5-2009, even before he attain the age of superannuation, as illegal, arbitrary and set-a-side the office memo NO.SRP.1/WO/14/2009/723 dated 1-4-2009 issued by the 3rd respondent

ii. consequently direct the respondents to reinstate and continue the petitioner in service upto 30-6-2015 duly granting all other consequential benefits.

Counsel for the Petitioner: SRI K. VASUDEVA REDDY

Counsel for Respondents: NANDIGAM KRISHNA RAO

The Court made the following: ORDER

THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI

WRIT PETITION No.12966 of 2009

ORDER:

Petitioner is aggrieved of the action of respondents in retiring him on 31.05.2009, whereas, he is entitled to be in service up to 30.06.2015 and he also sought for consequential directions to the respondents to pay him all consequential benefits by treating him to be in service up to 30.06.2015.

2. Heard both sides and perused record.

3. Case of the petitioner is that he was appointed in the Respondent/Singareni Collieries Company Limited on 16.06.1976. He studied up to 9th class and his date of birth as mentioned in the Transfer Certificate of 9th class was 20.06.1955, and hence, he is entitled to be in service up to 30.06.2015, however, the respondents have retired him from service with effect from 31.05.2009. It is his case that as per the statutory certificates issued by the Board of Mining Examinations under Coal Mines Regulations, 1957, his date of birth was 20.06.1955. It is stated that in the year 2008, when he was informed his date of retirement as 31.05.2009, he approached the respondents pleading that he was entitled to be in service up to 30.06.2015, as his date of birth is 20.06.1955. However, the

respondents have retired him on 31.05.2009. Hence this writ petition.

4. Respondents have filed counter affidavit contending that the petitioner had joined in service as Badli Filler in the Singareni Collieries Company Limited on 16.06.1976 and subsequently promoted as Shot-firer-C grade. At the time of his appointment, as the petitioner did not produce any certificate in proof of his date of birth, he was examined by the Colliery Medical Officer, who had assessed the age of petitioner as 27 years as on 23.05.1976. Petitioner had accepted the same and affixed his thumb impression on such medical certificate without any objection, and thus, his date of birth has been recorded as 23.05.1949 in the service and identity card, in the CMPF nomination form and in the 'B' Register which is a statutory register maintained under Coal Mines Regulations. It is further contended that the respondent-Company had given the notice of superannuation in the month of February, 2008 indicating the date of retirement of petitioner as 31.05.2009, but the petitioner, without protesting it, has filed this writ petition. It is further contended that the petitioner had already claimed the retirement benefits and he was paid all the retirement benefits and he had received the same and he is also receiving the monthly pension. It is the case of respondents that as per the National Coal Wage Agreement and as

per the instructions of the Joint Bipartite Committee for Coal Industry, the date of birth of an employee who did not produce any proof to that effect, shall be assessed by the Medical Officer concerned and the same will be recorded in relevant statutory records. Accordingly, the date of birth of petitioner has been recorded as 23.05.1949 in all the statutory records and the petitioner is well aware of the same, but for the reasons best known to him, he did not object for the same till his retirement on 31.05.2009. Since the respondents have acted in accordance with the Coal Mines Regulations and other agreements, there is no ground to interfere in the matter and the petitioner is not entitled for the relief sought for in the writ petition, which is liable to be dismissed.

5. It is to be seen that the petitioner had joined in the respondent-Company on 16.06.1976. In the identity and service card of the petitioner, his age was shown as 27 years as on the date of his joining and his date of birth was mentioned as 23.05.1949. Further, in the declaration given by the petitioner in the nomination form for Coal Mines Provident Fund, his date of birth has been mentioned as 23.05.1949. When his date of birth is recorded in those initial documents as 23.05.1949, it is not known as to why the petitioner has attested the same without any objection and having done so, this Court is of the considered view that he is not entitled to

raise any objection with regard to his date of birth at the fag-end of his service. Though the petitioner has contended that he had approached the respondents when the notice of superannuation was issued to him in the year 2008, he has not filed the copies of any such representations made by him, in the absence of which, it cannot be accepted especially when the same has been denied by the respondents. Thus, having kept quiet throughout his service and having received the retirement benefits, the petitioner is not entitled to seek for the relief of altering his date of birth and for continuing him in service up to 30.06.2015. It is settled law that the date of birth of an employee as recorded in the service records cannot be altered at the fag-end of service, when no objection was raised with regard to the same at the initial stage of appointment.

6. For the aforesaid reasons, I do not find any merit in this writ petition and the same is accordingly dismissed. No costs.

Pending miscellaneous applications, if any, shall stand closed.

//TRUE COPY//

SD/-N. SRIHARI
ASSISTANT REGISTRAR

SECTION OFFICER

To,

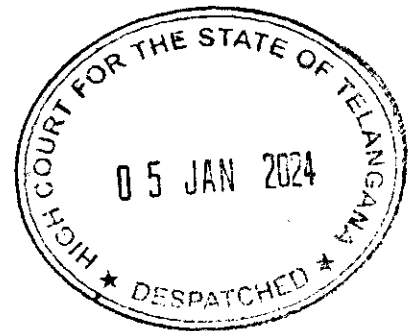
1. One CC to Sri K Vasudeva Reddy Advocate [OPUC]
2. One CC to Sri Nandigam Krishna Rao Advocate [OPUC]
3. Two CD Copies

MBC
GJP

V. J.

HIGH COURT

DATED :15/12/2023



ORDER

WP.No.12966 of 2009

DISMISSING THE WRIT PETITION

WITHOUT COSTS

(6) *vw*
26/12/23