

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 23673 of 2025

M/s. Grasim Industries Ltd.
Vs
The State of West Bengal & Ors.

For the Petitioner : Mr. Soumya Majumder, Id. Sr. Adv.
Mr. Suvadip Bhattacharjee.

For the Respondent no. 2 : Mr. Prasanta Kr. Pakrashi,
Ms. Afrin N. Mondal.

For the State : Mr. Suman Ghosh,
Mr. Sankha Prasad Roy.

Judgment reserved on : 22.04.2026

Judgment delivered on : 19.05.2026

Shampa Dutt (Paul), J.:

1. The writ application has been preferred challenging an Award dated 20th June, 2025 passed by the learned 3rd Industrial Tribunal, West Bengal, in Case No. 08 of 2022 under Section 10(1B)(d) of the Industrial Disputes Act, 1947 which has been punished on 2nd July, 2025.
2. The petitioner's case in short is that the respondent no. 2 raised dispute with regard to his date of birth at the fag-end of his

service. He sent an email communication on 10th November, 2020 enclosing his PAN card, Aadhar card, Driving Licence, ESIC card and Voter ID card with the request to rectify his date of birth. The ESI Corporation had introduced the system of e-Pehchan card in 2010, which is a digitally issued ESI Identity Card. In the said e-Pehchan Card, the respondent no. 2 had also declared his date of birth to be 15th July, 1962.

- 3.** On 5th August, 2021, the respondent no. 2 made a representation to the company with copy to the Conciliation Officer for providing him with copy of provident fund statements maintained by the in-house division of Jaya Shree Provident Fund Trust and salary slip of last month of working that is December 2020.
- 4.** In course of hearing both parties have filed their respective written notes.
- 5.** The petitioner case is that the core issue in this case relates to alteration of date of birth of the workman concerned/respondent No.2 at the fag end of his service career.
- 6.** Respondent No.2 joined service in 1985 in lieu of his father's superannuation.
- 7.** By a superannuation notice dated 29.10.2020, respondent No.2 was superannuated by treating his year of birth to be 1962.
- 8.** The demand for justice dated 10.11.2020 by respondent No.2 was based on the following documents:-

- (a) PAN
- (b) Aadhar Card
- (c) Driving Licence
- (d) ESI Records
- (e) Voter Card

9. The petitioner/Company's objection dated 26.11.2020 is with reference to EPFO Circular dated 3.4.2020.
10. The Respondent no.2 produced a purported birth certificate dated 26.12.2020, issued by the Government of Bihar, just 7 (seven) days before his effective date of superannuation.
11. In March, 2022, Respondent no.2 has settled his PF and also his credited amount from the Workers' Cooperative. Therefore, Respondent No.2 has accepted his dues by treating his date of superannuation to be 31.12.2020.
12. The claim and counterclaim with regard to year of birth would reveal that employer retired respondent No.2 by treating his year of birth to be 1962, whereas the employee contends that his year of birth should be 1966.
13. The documents relied upon by the employee in support of his contention is the ESI Identity Card.
14. The other document is purported to be a birth certificate dated 20.12.2020 procured 7 (seven) days before his superannuation.
15. As against the above, the following documents would reveal that his year of birth is 1962.
 - (a) Nomination and Declaration Form dated 13.3.1985 under P.F. Act.

(b) ESI E-Pehchan Card of 2010.

ESI's clarification certificate dated 23.9.2021.

16. The petitioner relying upon the judgment of the Supreme Court in **2024 SCC Online SC 3038 Paras 9.6** wherein the Court held that Voter card, Aadhar card, PAN card relied upon by the respondent no.2 are not admissible evidence. **The entry of date of birth therein are based on self-declaration.** It is settled law that age mentioned in Aadhar Card is not proof of age.
17. Furthermore OPW1 in cross-examination dated 12.12.2024 stated that retirement of workmen is settled on the basis of information kept in the records of EPF and that company maintains office records with detailed information regarding all the workmen. This testimony remained unchallenged. Even otherwise, the official records could not have been challenged by the workman without production of any material to the contrary, of unimpeachable character.
18. **Respondent No.2, despite superannuation continues to enjoy company's quarter with free electricity and water.**
19. Learned Tribunal passed the Award principally on the ground that the company did not produce service record in respect of the workman and thus Section 119(g) of Bharatiya Saksha Adhinyam, 2023 was relied upon. Accordingly, the year of birth of 1962 was not held to be his actual year of birth, and that R-2 should retire on 31.12.2024. The belated

birth certificate has been relied upon, which has been produced many years after the commencement of service, and **only 7 (seven) days before superannuation.** The document was generated much after entry into service and thus has no evidentiary value as argued by the petitioner.

20. It is further argued that Illustration under section 119(g) is wholly misplaced. Such reliance is misplaced since ESI and PF records were produced and marked as exhibits.

21. It is also stated that the employee was well aware in 1985 at the time of entering into service that his date of birth was recorded as 1962 in a statutory document, namely, Nomination and Declaration Form under the EPF & MP Act, 1952 bearing his own signature. Therefore, placing reliance on Clause 4 of the Standing Orders it is submitted that the age of workman recorded at the time of entry/employment cannot be questioned or altered and the date of birth once entered in the records of the company shall be the sole evidence of his age in relation to all matters pertaining to his service including fixation of his date of superannuation. Therefore, clause 4 of the Certified Standing Orders of the company operates wholly against the Respondent No. 2.

22. Admittedly, in the instant case, Respondent No.2 had not produced the birth certificate at the time of his entry into service.

The date of birth as recorded in the PF Nomination and Declaration Form was thus conforming to the requirement of order 4 of the Standing Orders of the company. The conduct of Respondent No. 2 in withdrawing all his service benefits including pension under Employees Provident Scheme, 1995 also suggest that he accepted the superannuation to be rightful.

23. Relying upon the judgment of the Supreme Court in **2006(6) SCC 537 (State of Gujarat and Ors. vs. Vali Mohd. Dosabhai Sindhi)**, the petitioner submits that law is well-settled that **correction of date of birth on verge of retirement is not permissible, (herein it was just 7 days before superannuation).**
24. Accordingly, it is submitted that the impugned award suffers from error apparent on the face of the record and the same is liable to be set aside.
25. **The respondent no. 2/workman** in the present case has also filed written notes and has argued that the said company was M/s. Jaya Shree Textile Ltd. situated at Rishra and did not issue any appointment letter to the respondent. It is further stated that the then Manager of the said Jaya Shree Textile company did not ask for producing any document regarding the date of birth, like matriculation/school final/school leaving certificate granted by University or Board of Secondary Education similar

education/authority in which his date of birth is recorded. M/s. Jaya Shree Textile never maintained any personal file.

- 26.** The respondent states that the Government of Bihar issued his birth registration certificate on 22nd December 2020 showing his date of birth on **30th April, 1966**. As such the respondent states that his date of superannuation will be 31st December, 2024, according to the Birth registration certificate issued by the Government of Bihar in December, 2020.
- 27.** It is stated that Grasim Industry has taken over Jayasree Textiles Ltd., where the petitioner joined four years prior to his retirement. The respondent was directed to produce documents relating to date of birth.
- 28.** The respondent submits that he has challenged the illegal termination before the authority by filing an application under Section 10(1B)(d) of the Third Industrial Tribunal, Kolkata and the Tribunal on hearing the learned counsels for the parties passed the impugned order in his favour.
- 29.** It is the further case of the respondent that the subsequent documents filed by the respondent/workman are to be considered in support of his date of birth and his period of employment is to be extended on the basis of the said date by postponing the date of retirement.
- 30.** On hearing the learned counsels for the parties and on perusal of the materials on record, this Court finds that the learned

Tribunal in respect of the issue of date of birth of the workman has given the following findings :-

“He has claimed that while his job was terminated by the Company, he was aged about 54 years. He has admitted that he has not filed any document (age proof document) to show that his age was 19 years while he joined in the job of the Company. He has divulged that the appropriate authority/Management /Officials of the OP/Company gave Exbt.-3 to him on 26.11.2020 (upon perusal of e-Pehchan Card issued by Employees' State Insurance Corporation i.e. Exbt.-3, it is found that the date of registration is mentioned as 30.05.2010 and 'date of birth' is mentioned as 15.07.1962). He has admitted that in the 2nd page of Exbt.-8 (Declaration Form under Employees' State Insurance Corporation) his year of birth is mentioned as 1966. He has divulged that in Exbt.-1 his year of birth is mentioned as 1966. He has admitted that in the 1st page of Exbt.-2 his year of birth is shown as 1962. He has divulged that E.S.I. Authority declared that they did not issue Exbt.-3 (It has not been mentioned relying on which document he claimed that E.S.I. Authority did not issue the Exbt.-3). He has divulged that Exbt.-8 was issued by E.S.I. Authority. He has admitted that he has not filed any document in support of his statement (allegation) that 'the Management of the Company indulges unfair labour practice of hire and fire without caring to abide by the laws of the land and principles of natural justice'. He has admitted that he was a member of Indian Rayon Employees' Cooperative Credit Society Ltd. and after his retirement from the service of the Company, he on 20.01.2021 submitted an application seeking

membership refund to the Secretary, Indian Rayon Employees' Cooperative Credit Society Ltd. and for settlement of his dues as per the Rule. He has identified the photocopy of his application for settlement of dues (filed by the OP/Company and the same has been marked as Exbt.-A). He has admitted that he has received all his dues according to his application (Exbt.-A). He has divulged that once he visited the office of Mr. Somenath Banerjee and handed him over the photocopies of his Aadhar Card, EPIC and ESI Card to show his actual date of birth. He has divulged that before joining in the job of the Company, he filed 'janam patrika' prepared by 'Panditji' to the Management of the Company as a proof of his age. He has denied the suggestion of the OP/Company that he manufactured all the documents which he filed subsequently in this case.

In view of the above detailed discussion it is now evident that the instant application u/s. 10(1B)(d) of the Industrial Disputes Act, 1947 is well maintainable.

Thus, the Issue No.1 is decided in affirmative in favour of the applicant/workman.

According to the fact of the case the service of the applicant/workman was made discontinued on and from 31.12.2020 under the disguise of superannuation/retirement assigning the reason that his year of birth was recorded as 1962, more specifically his date of birth was recorded as 15.07.1962. But from the above discussion it has become evident that the 'date of birth' of the workman was updated unilaterally by the OP/Company without giving any notice to the workman Baski Ram informing the necessity of updation of his date of birth/year of birth in the 'Record' of E.S.I.C. violating the rule of natural justice. By way of reasoned

discussion, we have been able to come to the conclusion that year of birth of the workman Baski Ram was '1966' and according to his Birth Certificate (Exbt.-9) his date of birth is '30.04.1966'.

After going through the materials on record including the evidence on record, it is reasonably realized that in this matter the defense case of the OP/Company is like 'building castles in the air'.

In view of the discussion made in above there should not be any hesitation to hold that the termination of service of the applicant/workman Baski Ram by the OP/Company w.e.f. 31.12.2020 in the form of retirement treating his year of birth as 1962 instead of 1966 is not justified at all.

31. Finally, the Tribunal passed the following order :-

"that the termination of the applicant/workman Baski Ram from his service under M/s. Grasim Industries Ltd. Unit Jaya Shree Textiles in the form of retirement treating his year of birth as 1962 instead of 1966 is found as illegal and unjustified and thus he is reinstated to his existing post as on 31.12.2020 till his retirement / superannuation 'on the close of working hours of 31" December, 2024'.

Since the applicant/workman Baski Ram was given premature retirement / superannuation 'on the close of working hours of 31" December, 2020', he was made deprived to earn his salary, allowances and other benefits from the OP/Company as its workman, and so he is entitled to get full back wages for clear 48 (forty-eight) months and all other incidental or consequential benefits.

The OP/Company is directed to pay the workman Baski Ram the salary of 48 (forty-eight) months i.e. from the

month of January, 2021 to December, 2024 at the rate of his last drawn salary along with subsequent increment, if any, according to his entitlement and other benefits.”

- 32.** The petitioner’s case is that the respondent no. 2 filled up his nomination and declaration form under Employees' Provident Funds and Miscellaneous Provisions Act, 1952 on 13th March, 1985 **wherein he declared his year of birth to be 1962.**
- 33. The said declaration was made by the respondent no. 2 in the year 1985.**
- 34.** It is further stated that the ESI Corporation had introduced the system of e-Pehchan Card in 2010, which is a digitally issued ESI Identity Card. **In the said e-Pehchan Card, the respondent no. 2 had also declared his date of birth to be 15th July, 1962.**
- 35.** The petitioner’s contention is that the petitioner company issued a superannuation notice dated 29th October, 2020 to the respondent no. 2 informing that **he would attain the age of superannuation on 31st December, 2020.** Such superannuation notice was issued by reckoning his year of birth to be 1962. The Birth Certificate issued by the Govt. of Bihar is dated 22nd December, 2020, showing the respondents date of birth as 30th April, 1966.
- 36.** It is further stated that in terms of the certified standing orders the following are the acknowledgeable documents as proof of date of birth:-

- a) Matriculation/School Final or School Leaving Certificate granted by a University or Board of Secondary Education or similar educational authority.
- b) A registered and certified copy of the date of birth as recorded in the registers of a municipality or a local authority.

37. The respondent no. 2 thereafter raised dispute with regard to his date of birth at the end of his service period. He sent an email communication on 10th November, 2020 enclosing his PAN Card, Aadhar Card, Driving Licence, ESIC Card and Voter ID Card with the request to rectify his date of birth.

38. It is stated by the petitioner that that the e-Pehchen Card issued by the ESI Corporation would show the year of birth of the respondent no. 2 to be 1962, and the provident fund nomination and declaration form being another statutory document would also reveal the year of birth of the respondent no. 2 to be 1962.

39. On or about 20th December, 2020, the respondent no. 2 had obtained a birth certificate from Government of Bihar purporting to exhibit that his date of birth was 30th April, 1966.

40. The petitioner contends that the respondent no. 2 could not have relied upon a birth certificate registered on 22nd December, 2020, generated and obtained at the fag-end of his service career.

- 41.** As the respondent no. 2 raised an industrial dispute and the same having been filed, the reference was made under Section 10(1B)(d) of the Industrial Disputes Act.
- 42.** It is further stated by the petitioner that in cross examination the respondent no. 3 admitted the documentary evidence being the e-pehchan card of ESIC dated 30.05.2010, wherefrom it revealed that **his date of birth was 15th July, 1962** as recorded in the offices of various statutory authorities. He contended that before joining service, he had only prepared a "Janam Patrika" prepared by a priest and that he had not produced the same to the employer before his joining.
- 43.** Admittedly the respondent workman joined the petitioner's erstwhile company on 13.03.1985 and gave his date of birth as 15.07.1962. In provident fund declaration made on 19.09.9 (illegible), the date of birth has been given as 15.07.1962.
- 44.** It was just 7 days prior to his superannuation that he produced documents in support of his birth as **30th April, 1966**.
- 45.** All documents at the time of joining shows the year of birth as 1962.
- 46.** In **Saroj and Ors. vs Iffco-Tokio General Insurance Co. and Ors., 2024 SCC OnLine SC 3038**, the Supreme Court held:-

“9.6 We find that the Unique Identification Authority of India, by way of its Circular No. 08 of 2023, has stated, in reference to an Office Memorandum issued by the Ministry of Electronics and Information Technology dated 20th December 2018, that an Aadhar Card, while can be used to

establish identity, it is not per se proof of date of birth. This office memorandum dated 20th December, 2018 was taken note of by a learned Division Bench of the Bombay High Court in State of Maharashtra v. Unique Identification Authority of India in its order dated 28th July, 2023. The Circular is extracted hereinbelow for ready reference:—

F. No. HQ-13065/ 1/2022-AUTH-II HQ/8075

Unique Identification Authority of India

(Authentication and Verification Division)

UIDAI Headquarter

Bangla Sahib Road, Behind Kali Mandir

Gole Market, New Delhi-110 001

Dated 22.12.2023

Circular No. 08 of 2023

Subject : Accepting Aadhar as a proof of Date of Birth (DoB) - regarding.

It has been observed that AUAs/KUAs are considering and accepting Aadhar card/e-Aadhaar as one of the acceptable documents for proof of Date of Birth (DoB).

2. In this regard, it is pertinent to mention that, Aadhaar is a unique 12 digit ID issued to a resident after he/she undergoes the enrolment process by submitting his/her demographic and biometric information. Once a resident is assigned an Aadhaar number, it can be used to authenticate the resident through various modes as prescribed under Aadhaar Act, 2016 and Regulations framed there under.

3. At the time of enrolment/updation, UIDAI records DoB as claimed by the resident, on the basis of the documents submitted by them, as specified under the list of supporting documents for Aadhaar enrolment, provided on the UIDAI website (<https://uidai.gov.in/images/commndoc/26> JAN

2023 Aadhar List of documents English.pdf. Further, it is to be noted that Regulations 10(4) and 19A of the Aadhaar (Enrolment and UPDATE) Regulations, 2016, mention that verification of the enrolment and update data shall be performed as provided in Schedule III.

4. In this regard, attention is drawn towards Office Memorandum dated 2-0.12.2018 issued by MeitY through UIDAI, where it has been stated that “An Aadhaar number can be used for establishing identity of an individual subject to authentication and thereby, per se its not a proof of date of birth” (copy enclosed).

5. This aspect of the Aadhar Act, 2016 has been reiterated/highlighted/stressed upon by different High Courts in recent judgments. The most recent one is given by the Hon'ble High Court of Bombay, in the case of State of Maharashtra v. Unique Identification Authority of India dated 28.07.2023 (copy enclosed).

6. In view of the above, it is required that use of Aadhaar, as a proof of DoB needs to be deleted from the list of acceptable documents.

7. This issues with the approval of the Competent Authority.

Encl : As above.

(Sanjeev Yadav)

Director

Tel : 011-23478609

Email : dirl.auth-hq@uidai.net.in

47. In the State of Gujarat and Ors. vs Valimohd Dosabhai Sindhi, (2006) 6 SCC 537, the Supreme Court held:-

“11. In Executive Engineer v. Rangadhar Mallik [1993 Supp (1) SCC 763 : 1993 SCC (L&S) 276 : (1993) 23 ATC 807] Rule 65 of the Orissa General

Finance Rules was examined which provides that representation made for correction of date of birth nearabout the time of superannuation shall not be entertained. The respondent in that case was appointed on 16-11-1968. On 9-9-1986, for the first time, he made a representation for changing his date of birth in his service register. The Tribunal issued a direction as sought for by the respondent. This Court set aside the order of the Tribunal saying that the claim of the respondent that his date of birth was 27-11-1938 instead of 27-11-1928 should not have been accepted on the basis of the documents produced in support of the said claim because the date of birth was recorded as per document produced by the said respondent at the time of his appointment and he had also put his signature in the service roll accepting his date of birth as 27-11-1928. The said respondent did not take any step nor made any representation for correcting his date of birth till 9-9-1986. In Union of India v. Harnam Singh [(1993) 2 SCC 162 : 1993 SCC (L&S) 375 : (1993) 24 ATC 92] the position in law was again reiterated”.

12. An application for correction of the date of birth should not be dealt with by the courts, the Tribunal or the High Court keeping in view only the public servant concerned. It need not be pointed out that any such direction for correction of the date of birth of the public servant concerned has a chain reaction, inasmuch as others waiting for years, below him for their respective promotions are affected in this process. Some are likely to suffer irreparable injury, inasmuch as, because of the correction of the date of birth, the officer concerned, continues in office, in some cases for years, within which time many officers who are below him in seniority waiting for their promotion, may lose the promotion for ever. Cases are not unknown when a person accepts appointment keeping in view the date of retirement of his immediate senior. This is certainly an important and relevant aspect, which cannot be lost sight of by the court or the tribunal while examining the grievance of a public servant in respect of correction of his date of birth. As such, unless a clear case on the basis of materials which can be held to be conclusive in nature, is made out by the respondent and that too within a reasonable time as provided

in the rules governing the service, the court or the tribunal should not issue a direction or make a declaration on the basis of materials which make such claim only plausible. Before any such direction is issued or declaration made, the court or the tribunal must be fully satisfied that there has been real injustice to the person concerned and his claim for correction of date of birth has been made in accordance with the procedure prescribed, and within the time fixed by any rule or order. If no rule or order has been framed or made, prescribing the period within which such application has to be filed, then such application must be within at least a reasonable time. The applicant has to produce the evidence in support of such claim, which may amount to irrefutable proof relating to his date of birth. Whenever any such question arises, the onus is on the applicant to prove about the wrong recording of his date of birth in his service book. **In many cases it is a part of the strategy on the part of such public servants to approach the court or the tribunal on the eve of their retirement, questioning the correctness of the entries in respect of their dates of birth in the service books. By this process, it has come to the notice of this Court that in many cases, even if ultimately their applications are dismissed,** by virtue of interim orders, they continue for months, after the date of superannuation. The court or the tribunal must, therefore, be slow in granting an interim relief or continuation in service, unless prima facie evidence of unimpeachable character is produced because if the public servant succeeds, he can always be compensated, but if he fails, he would have enjoyed undeserved benefit of extended service and thereby caused injustice to his immediate junior.

13. The position was succinctly stated by this Court in the above terms in *Secy. and Commr., Home Deptt. v. R. Kirubakaran* [1994 Supp (1) SCC 155 : 1994 SCC (L&S) 449 : (1994) 26 ATC 828 : JT (1993) 5 SC 404] .

14. As observed by this Court in *State of T.N. v. T.V. Venugopalan* [(1994) 6 SCC 302 : 1994 SCC (L&S) 1385 : (1994) 28 ATC 294] and *State of Orissa v. Ramanath Patnaik* [(1997) 5 SCC 181 :

1997 SCC (L&S) 1141] when the entry was made in the service record and when the employee was in service he did not make any attempt to have the service record corrected, any amount of evidence produced subsequently is of no consequence. The view expressed in R. Kirubakaran case [1994 Supp (1) SCC 155 : 1994 SCC (L&S) 449 : (1994) 26 ATC 828 : JT (1993) 5 SC 404] was adopted.

15. *The above position was also noticed in State of U.P. v. Gulaichi [(2003) 6 SCC 483 : 2003 SCC (L&S) 908] .*

16. *In the instant case the Rules referred to above clearly indicate the permissible area for correction of date of birth. In view of the specific provisions made, it was not permissible to effect any change.”*

48. Thus in view of the judgment in **Saroj (Supra)** and **Vali Mohd.**

(Supra) and the facts and circumstances of the case, the impugned award being not in accordance with law is set aside.

49. The Award dated 20th June, 2025 passed by the learned 3rd Industrial Tribunal, West Bengal, in Case No. 08 of 2022, under Section 10(1B)(d) of the Industrial Disputes Act, 1947, **is hereby set aside.**

50. Writ application is allowed.

51. Connected application, if any, stands disposed of.

52. Interim order, if any, stands vacated.

53. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)