

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**[Civil Writ Jurisdiction]**

**W.P.(L) No. 5858 of 2013**

Sarju Paswan

.... . Petitioner

Versus

Employer in relation to the management of  
Kustore Area of M/s. BCCL, District- Dhanbad

.. . . . Respondent

.....  
**CORAM : HON'BLE MR. JUSTICE KAILASH PRASAD DEO**  
**(Through :- Video Conferencing)**

.....  
For the Petitioner

: Mrs. M.M. Pal, Sr. Advocate  
Mrs. Mahua Palit, Advocate

For the respondent

: Mr. Anoop Kumar Mehta, Advocate

.....

**13/ 06.01.2022.**

Heard, learned counsel for the parties.

Petitioner- Sarju Paswan being aggrieved of the award dated 15.01.2013 passed by the Presiding Officer, CGIT No.2, Dhanbad in Reference No.40 of 2001 whereby the Presiding Officer has been pleased to hold that the action by the Management of BCCL, Kusunda (read as Kustore) area of retiring Shri Sarju Paswan, the workman from service with effect from 02.07.2000 is quite justified and legal.

Learned Sr. counsel, Mrs. M.M. Pal assisted by learned counsel for the petitioner, Mrs. Mahua Palit has submitted that the service record issued by Bharat Coking Coal Ltd., dated 08.06.1987 wherein it has been categorically mentioned that the date of appointment is 28.08.1972 and at the time of appointment, the petitioner- Sarju Paswan was aged about 22 years as per Form- B.

Learned Sr. counsel, Mrs. M.M. Pal assisted by learned counsel for the petitioner, Mrs. Mahua Palit has submitted that co-ordinate Bench of this Hon'ble Court in terms of order dated 14.06.2019 has directed the Respondent- Management to file counter-affidavit, bringing on record, the request letter as well as the Medical Board Reports, which has not been complied as on today.

Learned Sr. counsel, Mrs. M.M. Pal assisted by learned counsel for the petitioner, Mrs. Mahua Palit has submitted that from the perusal of Lower Court Record, it appears that Annexure- 1 of the writ petition is already on record at page no. 35 of the LCR wherein it has been mentioned that date of initial appointment to be 28.08.1972 and the age of the petitioner to be 22 years as on 28.08.1972 as per Form- B Register, which comes to 28.08.1950 if the age is considered 22 years.

Learned counsel for the respondent, Mr. Anoop Kumar Mehta has submitted that Form-B has already been marked as exhibit before the learned Tribunal vide M-1 and the original Form- B has been subsequently substituted by the Presiding Officer on 15.06.2012 by keeping photocopy of the same, which is at page no.31 of the Lower Court Record.

Learned counsel for the respondent, Mr. Anoop Kumar Mehta has further submitted that as per Form- B, the date of birth has already been corrected on 04.07.1986, as such, reliance cannot be placed upon the service script, which has been brought on record as Annexue-1 and also in the LCR at page no. 35 dated 18.06.1987.

Learned counsel for the respondent, Mr. Anoop Kumar Mehta has further submitted that in view of implementation instruction no.76, report of the Medical Board has been relied by the BCCL for maintaining the date of birth of the petitioner in Form-B Register, which has wrongly been mentioned in the service script has already been examined by the learned court below, as such, no relief can be granted in view of the judgment passed by the Apex Court in the case of *M/s Bharat Coking Coal Limited vs. Shyam Kishore Singh*, reported in **2020 (3) SCC 411** and another judgment passed by the Apex Court in the case of *Karnataka Rural Infrastructure Development Ltd. Vs. T.P. Nataraja*, reported in **2021 SCC OnLine SC 767** wherein the Apex Court has held that the objection with regard to the age cannot be raised at the fag end of the service.

However, this Court directs learned counsel for the respondent-Management, Anoop Kumar Mehta to comply the order dated 14.06.2019 passed by the co-ordinate Bench of this Court.

Put up this case on 27.01.2022.

In the meantime, both the parties are directed to inspect the LCR maintaining the Covid- 19 protocol.

Office is directed to make available those documents to the parties, if so requires.

**(Kailash Prasad Deo, J.)**