

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (L). No.5858 of 2013

Sarju Paswan, son of Late Akloo Paswan, Residence of village-
Belhari, P.O.- Belhari, P.S. – Bela, District- Gaya, Bihar

.... Petitioner

Versus

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

.... Respondent

CORAM : HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

For the Petitioner : Ms. M. M. Paul, Sr. Advocate
Ms. Mahua Palit, Advocate
Ms. Pushpanjali Kumari, Advocate
For the Respondent : Mr. Anoop Kr. Mehta, Advocate
Mr. Amit Kr. Sinha, Advocate
Mr. Karbir, Advocate

Order No:-17 Dated:-06-02-2024

Heard the parties.

2. During the course of hearing of this Writ Petition, learned senior counsel for the petitioner relies upon the judgment of a co-ordinate Bench of this Court passed in **C.W.J.C. No.3060 of 2000** in the case of **Karu Nonia vs. Bharat Coking Coal Limited & Others** reported in **2002 (1) JLJR 798** paragraph-4 of which reads as under:-

“4. It is settled law that the date of birth once recorded in statutory Form ‘B’ Register cannot be changed, if not changed within ten years from the date of entry in the service. If such principle is applicable for the employees, the Management is also bound to follow the same.”

3. When this Court asked the learned senior counsel for the petitioner as to which court has settled the law that the date of birth once recorded in statutory Form- B Register cannot be changed; if not changed within ten years from the date of entry in the service, it is submitted by the learned senior counsel for the petitioner referring to the judgment of the Hon’ble Supreme Court of India in the case of **Union of India vs. Harnam Singh** reported in **(1993) 2 SCC 162** in which there is reference to an amendment of Fundamental Rule 56 governing correction of date of birth in the service record, substituted by the Government of India, Ministry of Home Affairs,

Department of Personnel and Administrative Reforms Notification No.19017/7/79/Estt-A dated 30th November, 1979.

4. Learned senior counsel for the petitioner further refers to the notification issued by the Government of India/Bharat Sarkar, Ministry of Home Affairs; Bharat Sarkar, Department of Personnel and Administrative Reforms dated 30.11.1979 vide S.O. No.3997 which provides for a request regarding change of date of birth is to be made within five years of the entry into Government service by the employee concerned. The learned senior counsel for the petitioner could not place any judicial pronouncement where the law has been settled to the effect that the date of birth of the workman of Bharat Coking Coal Ltd. entered in Form "B" cannot be changed; if the same is not changed within 10 years from the entry in the service of such workmen.

5. Learned counsel for the respondent submits that there is no such law ever settled by any competent court of law that so far as the workman of the respondent- management of Bharat Coking Coal Ltd. is concerned, the date of birth once recorded in Form-B Register cannot be changed if not within ten years rather the law is otherwise and at any point of time it can be done. In support of his contention, learned counsel for the respondent cites paragraph-20 of the judgment of the Hon'ble Supreme Court of India in the case of **G.M., Bharat Coking Coal Limited, West Bengal vs. Shib Kumar Dushad & Others** reported in (2000) 8 SCC 696 and also paragraph-4 of the judgment of the Hon'ble Supreme Court of India in the case of **Bharat Coking Coal Limited vs. Presiding Officer and Another** reported in 1995 Supp (2) SCC 598.

6. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, this Court finds force in the submission of the learned counsel for the respondent that no law has ever been settled by any competent court that the date of birth once recorded in statutory Form-B Register cannot be changed if not changed within ten years from the date of entry in the service but since a co-ordinate Bench of this Court has opined otherwise, this Court thinks it proper to refer the following question to be answered by a Larger Bench:-

"Whether the date of birth of the workman of Bharat Coking Coal

Ltd., once recorded in statutory Form-B Register cannot be changed; if not changed within ten years from the date of entry in the service of the workman of Bharat Coking Coal Limited?"

7. Registry is directed to place the matter before the Hon'ble Acting Chief Justice to consider referring the question to a Larger Bench to be answered by it.

(Anil Kumar Choudhary, J.)

Animesh/