

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (S) No. 512 of 2009

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1. Bullu Yadav s/o late Bedu Yadav, Mining Mate, Dhorakola Division, Koderma Mica Unit, Jharkhand State Mineral Development Corporation Ltd. Koderma permanent resident of village-Durodih, P.O-Domchanch, District-Koderma(Jharkhand)
 2. Basudeo Barhari, s/o late Bodhi Barhai, Carpenter, Bandarchuan Mica Mines, Koderma Mica Unit, Jharkhand State Mineral Development Corporation Ltd., Koderma permanent resident of Village- Kharidih, P.O- Lokai, P.S.& District-Koderma, Jharkhand**Petitioners**

Versus

1. The State of Jharkhand through the Principal Secretary, Government of Jharkhand, Department of Mines& Geology, Nepal House, P.O&PS Doranda, District- Ranchi 834002
2. Jharkhand State Mineral Development Corporation Ltd. Khanij Nigam Bhawan, Nepal House Area, P.O &PS Doranda, District-Ranchi, 834002
3. The Managing Director, Jharkhand State Mineral Development Corporation Ltd. Khanij Nigam Bhawan, Nepal House Area, P.O &PS Doranda, District-Ranchi, 834002
4. The Mines Agent, Koderma Mica Unit, Jharkhand State Mineral Development Corporation Ltd. At PO PS & District-Koderma(Jharkhand)**Respondents**

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioners : Mr. Arvind Kumar Singh, Advocate

For the JSMD C : Mr. Manoj Kumar, Advocate, S.C

For the State : Mr.Divyam A.C to S.C.-IV
: Mr. Rakesh Ranjan, Advocate

08/Dated:-09.07.2025

This instant writ application has been filed for the following relief(s):-

“[i] For issuance of a writ of or in the nature of certiorari for quashing the Letter No. 339/10 Koderma dated 05.12.2010 (Annexure-1) issued by the Respondent No.3 through which the petitioner has illegally been ordered to retire from the service of the Corporation with effect from 04.01.2011 on attaining the age of 58 years against the decision of the Corporation through which the age of retirement has been enhanced to 60 years with retrospective effect from 20.12.2004 (Annexure-3) and also against the policy decision of State Government [Annexure-2].

[ii] For issuance of a writ or in the nature of mandamus thereby directing the Respondents to allow the petitioner to continue in the service of the

Corporation till he attains the age of superannuation of 60 years [on 04.01.2013 in tune with the policy decisions of the State Government [Annexure-2] and that of the Respondent Corporation [Annexure-3].

[iii] To pay the cost of litigation.

[iv] Any other relief (s) that Your Lordships may deem fit and proper in the facts and circumstances of the case.”

2. During course of hearing, this Court vide its order dated 05.05.2010 had directed the parties to inform the fate of the case which was pending before the Hon’ble Apex Court. For brevity, order dated 05.05.2010 is extracted herein below:

“.....In view of these facts, this matter is adjourned sine die. Parties may mention, this writ petition for its hearing only after the final disposal of the aforesaid Leave to Appeal.

Learned counsel for the respondent-State as well as learned counsel for respondent nos. 2&3 will bring notice to this Court about the latest orders passed by the Hon’ble Supreme Court in the aforesaid Special Leave to Appeal, from time to time.”

3. It has been informed by the learned counsel for the petitioners that earlier “stay” has been granted by the Hon’ble Apex Court on the similar issues, the detail of which has been given in para 19 of the counter-affidavit filed by respondent nos. 2 and 3, which is as under:

“19.That the petitioners Mr. Bullu Yadav and Mr Basude Barhi are retired employees of EMM, Koderma who have already retired from EMM on attaining 58 years the petitioners have claimed that their retirement was pre-mature by two (2) years on the premise that the rule/resolution of the JSMDCLtd. for retirement of its employees on attaining the age of 60 years also. is applicable to the EMM, Employees also. It may be recalled that JSMDCLtd has not altered the conditions of service of EMM, Koderma employees and all of them are being retired on attaining 58 years age. In fact, this particular issue is the Subject matter of some other writ petitions which are pending for disposal in the Jharkhand High Court as listed hereunder:

- i) LPA No.291/06 JSMDCLtd Vers. Bhuneshwar Gope & Ors.*
- ii) LPA No.290/06 JSMDCLtd. Vers. Shiv GahanRam.*
- iii) LPA No.572/06 JSMDCLtd. Vers. Teklal Gope.*
- iv) WP (S) No.5594/06 Mahavir Prasad Yadav and Ors -Vs. State of Jharkhand & ors.*
- v) WP (S) No.6031/08 Khublal Yadav Vs. The State of Jharkhand & Ors.*

vi) WP (S) No.5835/08 Jugal Hajam- Vs. The State of Jharkhand&Ors.

It may also be recalled that the Corporation has preferred a SLP in the Supreme Court of India being SLP No.CC 7943/06 JSMDCLtd. -Vs Lakhannath Goswami & Ors against judgment dated 10.05.16 of a bench of the Jharkhand High Court in LPA No.436/05 JSMDCLtd.-Vs-Lakhan Nath Goswami. The SLP has been admitted and is pending for final hearing and in the meantime an interim stay has been granted.”

4. Counsel for the petitioners further draws the attention of this Court towards Annexure-11 annexed with the supplementary affidavit dated 24.04.2012, and submits that a final order has been passed in the pending case before the Hon’ble Apex Court, in favour of the Respondents (similar situated persons like petitioners), as such, now there is no reason not to give the benefits as prayed for, in this instant writ application.

5. Learned counsel could not dispute the fact that the case which was pending before the Hon’ble Apex Court has been decided against them. Accordingly, similar benefit can be given to them, if the same has not been given.

6. Having regard to the aforesaid facts and circumstances of the case, it appears that the issues have already been set at rest by the Hon’ble Apex Court vide its order dated 02.11.2011 in Special Leave to Appeal (Civil No. 18316 of 2006), wherein the Hon’ble Apex Court has held as under:

“.....Thus the Division Bench of the High Court has held that the writ petitioners are the employees of the State of Jharkhand and the Jharkhand State Mineral Development Corporation is only its caretaker and therefore the writ petitioners are entitled to continue in service up to the age of 60 years.

The State of Jharkhand has not filed any appeal against the decision of the Division Bench of the High Court in LPA No. 436 of 2005. Development Corporation The Jharkhand State Mineral has filed the present SLP. It is not disputed that the State of Jharkhand has enhanced the retirement age of its employees from 58 years to 60 years. It cannot be disputed that the age of retirement of the employees of the Jharkhand State Mineral Development Corporation stands enhanced to 60 years w.e.f. 20.12.2004. It is also not disputed that the respondents attained the age of 58 years only after the above-mentioned decisions of the State Government and the Jharkhand State Mineral Development Corporation to enhance the age of retirement of its employees from 58 to 60 years. Therefore, whether the respondents

are the employees of the State of Jharkhand or the employees of Jharkhand State/ Mineral Development Corporation, they are entitled to continue in service till they attain the age of 60 years. The contention of the first petitioner-Corporation is that the respondents are not its employees as the first petitioner is only the caretaker of the Koderma Mica Unit. At the same time, it is admitted that the respondents were being paid their wages till they attained the age of 58 years by the first petitioner-Corporation. The State of Jharkhand has not challenged the finding of the Division Bench of the High Court that the respondents are the employees of the State.

Thus whether the respondents are the employees of the Corporation or the employees of the State Government, their age of retirement is 60 years and they shall be allowed to continue in service till they attained the age of 60 years. Whoever paid their wages till they attained the age of 58 years shall continue to pay their wages and allowances till they attain the age of 60 years.

It is also significant that before the learned Single Judge of the High Court, learned counsel for the Corporation had agreed that the case was squarely covered by the judgment dated 31.1.2005 passed in W.P.(S) No. 190 of 2005 and similar cases. In that judgment, the High Court had directed the State of Jharkhand and the Jharkhand State Mineral Development Corporation to implement the decision taken by the Board of Directors on 20.12.2004 to enhance the age of retirement of the employees from 58 years to 60 years.

In the above circumstances, we do not find any valid reason to interfere with the impugned judgment of the High Court.

The special leave petition is dismissed.”

7. As the issue which is involved in this application for considering the age of retirement as 60 instead of 58 years has already been set at rest by the Hon’ble Apex Court; as such, this writ application is also allowed.

8. Accordingly, all consequential benefits may be extended to these petitioners also, considering their age of retirement as 60 years; what has been given to the similarly situated employees, if the same has not been given till date, within a period of 12 weeks, from the date of receipt/production of copy of this order.

9. Pending I.A., if any, also stands closed.

(Deepak Roshan, J.)

Abha/-