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C.A.No. 420 OF 2001
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp
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.....L.....I.....T.....T.....T.....T.....T.....T.....J.....
ITEM NO.108 COURT NO.5 SECTION-XVII

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.420/2001

Bihar State Electricity Board .. Appellant

Vs.

Bihar Power Workers Union & Ors. .. Respondents

DATE : 6.3.2002 : This/These matter (s) was/were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN
HON'BLE MR..JUSTICE P. VENKATARAMA REDDI

For Appellant (s) : Mr. Navin Prakash, Adv.
Mr. Rahul Singh, Adv.

For Respondent (s) : Mr. K.L. Janjani, Adv. (NP)

UPON hearing counsel the Court made the following
O R D E R

.....L.....I.....J
.SP2

Learned counsel for the appellant argued from 11.30 a.m. to 11.40 a.m.
The appeal is dismissed in terms of the signed order.

.SP1

Charanjit (Om Prakash)
Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 420/2001@@
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Bihar State Electricity Board .. Appellant

Vs.

Bihar Power Workers Union & Ors. .. Respondents

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The question raised before us is as to whether the decision of the appellant -Board to accept the average of the minimum and maximum age determined by the Medical Board would be justified or not OR as opined by the High Court that the employees in question should get the benefit of the lesser age determined by the Medical Board.

The learned counsel for the appellant urged that relying upon the decisions of this Court in Krishnan Kakkanth Vs. Govt. of Kerala & Ors.- 1997 (9) SCC 495 and State of Pubjab & Ors. Vs. Ram Lubhaya Bagga & Ors. - 1998 (4) SCC 117 that when a policy had been adopted by the appellant- Board in respect of determination of age for the purpose of retirement, the same cannot be interfered with unless the same is arbitrary.

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The High Court is of the view that age determined by the Medical Board cannot be accurate and, therefore, it finds that it would be appropriate to extend the benefit of the lesser age determined by the Medical Board. We do not think that that view of the High Court should be upset. The view of the appellant-Board or the policy adopted by the appellant- Board that it should be only average of the maximum and minimum age, cannot be quite accurate, if in fact, the employee is of the lesser age as determined by the Medical Board. In that view, the policy adopted by the appellant- Board cannot be stated to be without any fault. In that view of the matter, the interference by the High Court is justified, in the circumstances of the case. The appeal is therefore dismissed.

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[S. RAJENDRA BABU]@@
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[K.G. BALAKRISHNAN]@@
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.....J
[P. VENKATARAMA REDDI]@@
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New Delhi,@@
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March 6, 2002 @@
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