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SLP(C)No. 15202 OF 1999
ITEM No.206

Court No. 8

SECTION XV
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Civil) No.15202/1999

(From the judgement and order dated 19/08/1999 in LPA 207/99
of The HIGH COURT OF PATNA AT RANCHI)

EMPLOYER I.R.TO MGMT.OF G.C.OF M/S.BCCL

Petitioner (s)

VERSUS

THEIR WORKMEN REP.BY BIHAR COLL.K.UNION

Respondent (s)

(With Appln(s). for exemption from filing O.T.
and with prayer for interim relief and office report)
(For Final Disposal)

Date : 30/03/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.P. MISRA
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Petitioner (s)

Mr. Ajit Kumar Sinha,Adv.

For Respondent (s)

Mr. S.B. Upadhyay,Adv.

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

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

Leave granted. The appeal is allowed. Costs on the
parties.

.SP1

(Ganga Thakur)
P.S.to Registrar

(V.P. Tyagi)
Court Master

Signed order is placed on the file.

.PA

IN THE SUPREME COUR OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2001
(Arising Out of S.L.P. (C) No.15202 of 1999)

Employer in relation to the Management of
G. C. of M/s BCCL

.Appellant

-Vs.-

Their Workmen, rep. By Bihar Colliery
Kamgar Union

.Respondents

ORDER

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

Leave granted.

Heard learned counsel for the parties. The appellant has challenged the order of the High Court which has dismissed the Letters Patent Appeal though holding the questioned appointment of 11 persons were medically examined and were found to be under age in the year 1973 the year of their appointment. In spite of this it further held, under-age disability now vanishes. We do not find such a finding could be sustainable in the eyes of law. Once this is found, they were under age in the year 1973, their regularisation based on such appointment cannot be upheld, specially when there is specific provision, no person can work in the mines who is under-age. If this be so there is no justification for upholding the order as their age now is 30 years. The question is not of their employment on compassionate ground after attaining the requisitive age. The right which is claimed is the right from the date of initial appointment, namely, in 1973. In fact, during the period 1973-75 it is not in dispute they worked only for 75 days, since thereafter they are not working.

Hence for the aforesaid reasons we find the present appeal has merit and the High Court order cannot be sustained, accordingly, it is allowed. The impugned orders are set aside. Costs on the parties.

.....J.
(A.P. Misra)

.....J.
(B.N. Agrawal)

New Delhi:
March 30, 2001