

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S)No.6820 of 2017**

Kamal Paswan. Petitioner

-Versus-

1. Bharat Coking Coal Ltd. Through its Chairman-cum- MD having its office at Koyla Bhawan, Koyla Nagar, P.O., P.S. & District-Dhanbad.
2. The Director (Personnel), Bharat Coking Coal Ltd., P.O. P.S. & District-Dhanbad.
3. The General Manager, Bharat Coking Coal Ltd. Block-II Area, P.O. Nawagarh, P.S. Baghmara & District-Dhanbad.
4. The Personnel Manager, Amlabad Project, P.O. Amlabad Colliery, Bharat Coking Coal Ltd. P.S. Chandankiary, Dist. Bokaro.

... Respondents

CORAM: THE HON'BLE MR. JUSTICE DR. S.N.PATHAK

For the Petitioner: Mr. Sunil Singh, Advocate.
For the Respondents: Mr. Indrajit Sinha, Advocate.
Mr. Amit Kumar Sinha, Advocate.

04/ 31.08.2018 The petitioner has approached this Hon'ble Court with a prayer for direction upon the respondents for quashing of memo No.BCCL/AMBD/PS/2017/850 dated 20.09.2017 (Annexure-7) by which his claim for rectification of date of birth has been rejected arbitrarily and without application of mind and for staying the operation of notice of retirement dated 02.06.2017 issued by the respondents as also to rectify/review the date of birth on the basis of school leaving certificate i.e. 05.03.1960 instead of 02.12.1957 and thereupon make necessary corrections in his service record.

2. The factual exposition, as has been delineated in the writ petition, is that the petitioner was appointed to the post of Heavy Vehicle Driver by respondent authorities vide letter dated 11.11.1987. The Medical Board of the respondent-authority assessed the age of the petitioner at the time of appointment as 30 years and date of birth as 02.12.1957 but ignored the school leaving certificate of the petitioner wherein his date of birth has been recorded as 05.03.1960.

3. It is the case of the petitioner that at the time of filing of service excerpt on 24.09.1991 i.e. Annexure-3, the petitioner has made objection regarding his date of birth being recorded as 02.12.1957 instead of 05.03.1960. The petitioner made several representations to the respondent authority to correct the date of birth. The respondent-authorities time and again gave assurance to the petitioner that the same shall be corrected. The date of birth recorded in the school leaving certificate of the petitioner is 05.03.1960 which has been issued by the School authority on 08.11.73. The same date of birth is being recorded in voter identity card, UID, PAN Card save and except in the service record of

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the petitioner.

4. It is the further case of the petitioner that at the time of appointment, the only qualification required for the post of driver was that he should know driving and possess a valid license issued by the competent authority. The petitioner was issued driving license by Licensing Authority, Howrah after attaining majority in the year 1979. In spite of various representation to the respondents, the grievance of the petitioner has not been redressed, therefore, the petitioner preferred a writ petition i.e. W.P. (S)No.6400/2016 which was disposed of by the Hon'ble Court on 04.07.2017 with a direction to respondents to take a decision and pass a final order on the representations of the petitioner, taking into consideration the date of birth as mentioned in the school leaving certificate. Pursuant to the above said order by the Hon'ble High Court, the petitioner preferred his representation before the concerned respondents and the respondents vide memo No. BCCL/AMBD/PS/2017/850 dated 20.09.2017 arbitrarily and without application of mind rejected the claim of the petitioner for rectification of date of birth and hence petitioner has again knocked the door of this Hon'ble Court for redressal of his grievance.

5. Learned Counsel for the petitioner submits that the order impugned is not sustainable in the eye of law. The respondents have not applied their mind while passing the order impugned. The petitioner is entitled to get the date of birth rectified as per the school leaving certificate obtained prior to his appointment. The respondent cannot dispute the school leaving certificate of petitioner wherein the date of birth has been mentioned as 05.03.1960 which has been issued by the School Authority on 08.11.1973 much prior to his joining.

6. Learned Counsel for the petitioner further submits that the Hon'ble Court considering the similar issue in W.P.(S)No.1698 of 2008 vide order dated 20.06.2011 had held that clause A (ii) of Implementation Instruction No.76 provides for determination of age as per age recorded in School Leaving Certificate. The respondent-authorities have illegally and arbitrarily not considered the case of the petitioner.

7. Per contra no counter-affidavit has been filed.

8. However, learned Counsel for the respondents submits that in compliance of Court's order dated 04.07.2017 passed in W.P.(S)6400 of 2016, a reasoned order rejecting the claim of petitioner for correction of date of birth at the fag end of his service tenure has already been passed by the respondent-CCL on 20.02.2017. It is clearly stated in the said rejection order that as the petitioner has not fulfilled the requirement of submission of

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matriculation certificate issued prior to his employment as per implementation, instruction No.76 of NCWA. The claim of the petitioner is frivolous, illegal and without any stand and as such the same is liable to be rejected.

9. Heard the parties.

10. Be that as it may, having gone through the rival submissions of the parties and perusal of the impugned order dated 20.09.2017, it appears that the respondents have taken every aspect to settle the claim of the petitioner regarding correctness of his date of birth and come to finding that as the petitioner failed to produce the matriculation certificate issued prior to his employment, his case cannot be considered in view of implementation, instruction No.76 of NCWA. Further, it is stated that date of birth of the petitioner as assessed by Medical Board at the time of his joining was 30 years as on 02.12.1987. Thereafter in the age column of Form B Register his age is recorded as 02.12.1957, which was duly acknowledged by the petitioner by putting his signature and without any objection and demur. The Form B is a statutory Register maintained under the Mines Act. The entry made therein cannot be changed in any circumstances.

11. In the backdrop of aforesaid discussion, no interference is warranted and as such the writ petition stands dismissed.

[Dr. S.N.Pathak,J.]

P.K.S.