

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.13606 OF 2019

Date: 30.08.2019

Between:

Jagan Mohan S/o.Shivanandam Lotu,
Aged about 61 yrs, worked as EP Greezer/Helper at PKOC,
Singareni Collieries Company Limited,
Manuguru, Bhadradri Kothagudem District.

.....Petitioner

And

The Singareni Collieries Company Limited,
Rep., by its Chairman & Managing Director,
Kothagudem, Bhadradri Kothagudem District & others.

.....Respondents



The Court made the following:

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.13606 OF 2019

ORDER:

Heard learned counsel for petitioner and learned Standing counsel for the respondents.

2. Petitioner joined services in Singareni Collieries Company Limited, as General Mazdoor, later promoted as EP.Greezer. Petitioner claims that he developed several ailments such as Spondylitis, invertible discs/disc degeneration, bulging of L3, L4 & L5S Arthritis. Therefore he is unable to perform his duties. He requested the Company to refer him to a Corporate Medical Board to examine his fitness. As his request was not acceded to, he filed W.P.No.25967 of 2016. The said writ petition was disposed of by following the decision of this Court in W.P.No.38451 of 2015 & batch dated 22.06.2016. Petitioner now contends that inspite of the directions issued by this Court, he was not referred to Corporate Medical Board. Petitioner attained the age of superannuation on 01.07.2016. This writ petition is filed to direct the respondents to refer the petitioner to Corporate Medical Board in terms of the judgment rendered by the learned Single Judge in W.P.No.38451 of 2015 & batch and further orders issued by the Division Bench in W.A.No.1080 of 2017 & batch dated 06.09.2017.

3. In W.P.No.38451 of 2015 & batch, learned single judge issued directions to consider the petitioners therein, who have not retired from service as on the date of judgment, to subject them to re-examination on their medical condition and further directions were issued for conducting medical examination. However, some of the aggrieved employees filed W.A.No.1080 of 2017 & batch.

They claimed that by the time they filed writ petitions they were in service and during pendency of the writ petitions they retired. They alleged that the learned Single Judge erroneously denied them to undergo re-examination on their medical condition on the ground that by the time the judgment was rendered, they were not in service. Accepting the said contention the Division Bench clarified that the cut off date would be the date on which the writ petitions were filed and not the continuation or otherwise of the petitioners on the date of passing of orders in the writ petition. The Division Bench observed that when persons in service as on the date of passing of orders in the writ petitions are entitled to the benefit of reexamination, the same cannot be denied to such of those petitioners who were in service, when they instituted writ petitions but retired during pendency of writ petitions and to the said extent, the writ appeals were allowed.

4. Admittedly, petitioner attained the age of superannuation and was retired from service on 01.07.2016. W.P.No.25967 of 2016 was filed on 02.08.2016 i.e., after his retirement and the same was disposed of on 04.08.2016 reiterating above directions. Thus, by the time writ petition was filed he was not in service. Therefore, petitioner is not falling within the cut off date prescribed by the Division Bench. Therefore, he is not entitled to the limited relief granted by the learned Single Judge in the batch of writ petitions, subjecting the persons to undergo medical re-examination. Therefore, the claim of the petitioner that the respondents are illegally not subjecting the petitioner for medical re-examination is not valid. Thus, the writ petition is liable to be dismissed.

5. Accordingly, the Writ Petition is dismissed. Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO, J

30th August, 2019
Rds

