

(2010) 09 JH CK 0025

In the Jharkhand High Court

Case No : L.P.A. No. 90 of 2010 (Arising out of an order of a learned Single Judge passed in Writ Petition (S) No.496 of 2007)

Bharat Coking Coal Ltd. and Others

APPELLANT

Vs

Chhota Birsa Uranw

RESPONDENT

Date of Decision : 20-09-2010

Acts Referred:

Citation : (2010) 58 BLJR 1343

Hon'ble Judges : Sushil Harkauli, J;Dhirubhai Naranbhai Patel, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. We have heard learned Counsel for the appellants as well as the learned Counsel for the respondent-workman.
2. The bare facts are that the respondent-workman studied in a government school known as Rajya Samposhit Uchcha Vidyalaya, Baghmara, Dhanbad from January 1964 to August 1964 and at that time his date of birth was recorded in the school records as 06.02.1950.
3. A school leaving certificate to that effect was obtained by the appellant in 1979.
4. The workman joined the service with the appellant on 31.01.1973. At the time of joining service his date of birth was recorded in the service records as 15.02.1947. The basis of such recording is not clear.
5. Subsequently in 1986 the workman passed Mining Sardarship and was given a Mining Sardar certificate in which his date of birth was recorded as 06.02.1950, i.e. the same date of birth as recorded in the school leaving certificate.
6. In 1987 on coming to know of the wrong recording of his date of birth in his service records from the nomination form, the workman sought rectification of the date of birth in his service records.

7. The learned Single Judge has found that this rectification was not sought at the fag end of the service.
8. In any case, the date of birth of the workman was recorded as 06.02.1950 in 1964 in the school records, which was much prior to the joining of service.
9. We had granted time to the appellant in this appeal for verifying the genuineness of the school leaving certificate.
10. In response, a supplementary affidavit has been filed by Sri Dilip Kumar Mishra, Legal Inspector of the appellant company on 06.09.2010. It has been admitted in the said supplementary affidavit that the school leaving certificate has been verified and has been found to be genuine.
11. The appellant now relies upon its policy contained in Implementation Instruction No. 76, which prescribes the procedure for determination/verification of age of the employees. A copy of the same has been enclosed as Annexure-1 to the supplementary affidavit.
12. The first part of that Instruction {titled (A)} relates to the determination of age at the time of appointment with which we are not concerned in this case. The second part titled (B) deals with the review determination of date of birth in respect of existing employees.
13. Clause (i) (a) of the Instruction permits rectification of the date of birth by treating the date of birth mentioned in the school certificates to be correct provided such certificates "were issued" by the educational institution prior to the date of employment.
14. According to the argument of the appellant the school leaving certificate was issued in 1979 and the workman joined the service in 1973 and therefore, the certificate was ?not issued? prior to the date of employment and therefore cannot form the basis for correction of the date of birth.
15. We are of the opinion that the interpretation of the words "were issued" is not correct.
16. While interpreting any words, the purpose of the policy of the document has to be kept in mind. We are of the considered opinion that the words "were issued" have been used for the purpose of safeguarding against misuse where an employee, after joining service, joins an educational institution with a wrong later date of birth and obtains a certificate for the purpose of increasing the period of employment.
17. These words will not apply where the school records, which contain the date of birth, were created long before the employment began. The date of issue of certificate actually intends to refer to the date with the relevant record in the school was created on the basis of which the certificate has been issued.
18. To fortify the above view it may be pointed out here firstly that a school

leaving certificate is normally issued at the time when the school is left by the student. Its copy can be obtained subsequently again. To take a hypothetical case, if a student misplaces his school leaving certificate and applies for a fresh copy of the same, and the fresh copy is obtained after entering into employment, it would make no difference to the situation.

19. In these circumstances, we are of the opinion that the order of the learned Single Judge does not call for any interference. Accordingly, this appeal is dismissed.