
(2010) 12 AP CK 0100
In the Andhra Pradesh High Court
Case No : Writ Petition No. 24561 of 2010

Boddu Laxmi Rajam

APPELLANT

Vs

The Singareni Collieries Company Limited

RESPONDENT

Date of Decision : 01-12-2010

Acts Referred:

Citation : (2011) 2 ALD 493 : (2011) 1 ALT 218

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : Srinivasa Rao Putluri, for the Appellant; Nandigam Krishna Rao, S.C. for Singareni Collieries, for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—The Petitioner joined the service of Singareni Collieries Company Limited, the 1st Respondent herein, on 28-10-1975, as Bit Grander. His age was mentioned as 21 years as on the date of joining the duty. The same was reflected in the identity card issued to the Petitioner as well as the "B" register, maintained by the Company. In the year 1996, when the Petitioner was being referred to medical examination, the Management mentioned his age as 25 years, as on the date of appointment. Immediately, the Petitioner made a representation on 11-04-1996, pointing out the discrepancy. No steps were taken thereon, in spite of submission of repeated reminders. On 11-08-2009, the Petitioner was served with a notice, informing that he would attain the age of superannuation on 01-10-2010. This was on the basis, that his age as on the date of entering the service was 25 years. The Petitioner made a representation once again. He has also approached the Assistant Commissioner of Coal Mines Provident Fund, to furnish the service particulars, according to the records maintained by them. The same was forwarded to the Respondents.

2. The Petitioner was referred to Apex Medical Board, vide proceedings dated 17-12-2009, by treating his date of birth, as per the records, as 26-09-1950. The Board is said to have determined the date of birth of the Petitioner as,

19-12-1950. That was communicated to the Petitioner, vide proceedings dated 04-01-2010. The Petitioner feels aggrieved by the same. He contends that his date of birth was 20-06-1954, as evidenced by the school records, and the same was reflected in terms of years in his service records, through out.

3. The Respondents filed a detailed counter-affidavit and connected documents. According to them, the age of the Petitioner was determined by the Medical Officer, at the time of recruitment, and in the service register, it was mentioned as 25 years. The fact, that the age of the Petitioner was mentioned as 21 years in the "B" register and other documents, is not denied. The Respondents contend that the procedure, prescribed for determination of the age by the Medical Board, in the event of their being any discrepancy, was followed, and no illegality has taken place, at any stage.

4. Sri Srinivasa Rao Putluri, learned Counsel for the Petitioner submits that his client studied up to 7th Class in an institution, and the date of birth was recorded as 20-06-1954, and that the age was also mentioned at every stage, on the basis of that date. He contends that, it was only in the year 1996, that the Respondents came forward with a plea, that the age of the Petitioner, when he entered the service, was 25 years, and soon thereafter, the Petitioner made representation. Learned Counsel submits that the Respondents cannot, by themselves, raise a dispute, and refer the matter to the Medical Board. He alleges that the so-called assessment, by the Medical Board, is improper and contrary to record.

5. Sri Nandigam Krishna Rao, learned Standing Counsel for the Respondents, on the other hand, submits that though it is true that the age of the Petitioner was mentioned as 21 years in the "B" register and other documents, in the service register, it was entered as 25 years. He contends that, soon after the discrepancy was noticed in the year 1996, the Petitioner was informed of the same. Learned Counsel further submits that the prescribed procedure was followed, to resolve the dispute.

6. The Petitioner was appointed against an unskilled post in the year 1975. Hardly any educational qualifications are required for it. It is only the physical endurance of the candidates, that is tested. The age of the selected candidates is entered on the basis of the assessment, by a Medical Officer. It is not in dispute that "B" register happens to be the basic document containing the particulars of the employees, of the Respondents-company. The age of the Petitioner was mentioned as 21 years, as on the date of his appointment. The other important documents, in which the date of birth figures, prominently, are, the coal mine provident fund registers, identity card, etc. In all of them, the age of the Petitioner was mentioned as 21 years only.

7. It was only in the year 1996, when the Petitioner was to attend for a routine medical examination, that his date of birth was mentioned as 25 years, in the reference form. The Petitioner immediately protested. Nothing happened for

about 1 1/2 decades. Ignoring their own records, and keeping aside the representations of the Petitioner, the Respondents have served a notice dated 11-08-2009, informing the Petitioner, that he would attain the age of superannuation on 01-10-2010. This was on the basis that, his age, as on the date of entering the service, was 25 years. Naturally the Petitioner protested.

8. The 1st Respondent evolved a procedure for resolution of disputes, as to age, or date of birth. Under the scheme, the Age Determination Committee (for short "the Committee") is conferred with power to examine the cases. If the committee finds that the discrepancy is material, it has to refer the matter to the Medical Board. The necessity to refer the case of the Petitioner to Medical Board was not felt, till he was served with a notice of superannuation. It is only when the Petitioner protested and placed the various documents before them, reflecting consistent age and date of birth, that the Respondents have chosen to refer him to the Medical Board. The committee issued proceedings dated 11-11-2009, stating that a glaring discrepancy was noticed, between the age recorded in the company's records, and the apparent age of the employee.

9. The very exercise of power by the committee was untenable. The reason is that the occasion to refer the case to Medical Board would arise, only when any discrepancy is noticed. Nothing of that sort was found. The protest made by the Petitioner for an unwarranted and baseless order, proposing to retire him, contrary to the date of birth, mentioned in the service records; cannot be sustained.

10. The matter can be viewed from Anr. angle also. Suppose the Petitioner made an application for change of date of birth at the fag end of his service without pointing any serious discrepancy, the Respondents would not, at all have acceded to his request. A different approach cannot be adopted by them., If they can safely reject the request of the Petitioner for alteration of the date of birth, at this stage, and on the material that is available as of now, the reverse process cannot be undertaken.

11. For the foregoing reasons, the writ petition is allowed, and the impugned proceedings are set aside. The Respondents shall be under obligation to continue the Petitioner, in service, till he attains the age of superannuation, as per the date of birth entered in the "B" register, before it was altered by them.

12. There shall be no order as to costs.