

(2003) 04 JH CK 0041
In the Jharkhand High Court
Case No : L.P.A. No. 473 of 2002

Hira Lal

APPELLANT

Vs

Steel Authority of India and Others

RESPONDENT

Date of Decision : 10-04-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 1 JCR 442

Hon'ble Judges : Gurusharan Sharma, J; Amareshwar Sahay, J

Bench : Division Bench

Advocate : Gopal Krishna Sinha and Rajesh Kumar, for the Appellant; Ananda Sen, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard the parties. According to stamp report dated 16.9.2002, the limitation for filing the present appeal expired on 18.6.2002, whereas it was filed on 20.9.2002. The explanation of the delay aforesaid has been furnished in the petition u/s 5 of the Limitation Act, 1963, at flag "L", which, in our opinion, is sufficient. Hence the delay in filing the appeal is condoned.

2. The appellant claimed that earlier he was working with Eastern Railways and in the year 1975 he was employed as Chowkidar with Steel Authority of India Limited at Bhawanathpur Lime Stone Mines, Garhwa. It is not in dispute that in the absence of any birth certificate, his age was assessed by the Medical Board, at the time of his appointment in the year 1975 at 35 years. He was, therefore, born in the year 1940. Accordingly his age, in the personal data form, prepared at the time of his initial appointment was mentioned as 35 years in 1975. He was served with a notice dated 12.7.2000 that he was to superannuate from service on 31.12.2000. On 7.8.2000 appellant filed representation before the Deputy General Manager of Mines, stating, that in the Medical record-cum-Identity Card his date of birth was shown as 19.10.1944 and as such the entry relating to his date of birth in the personal data form may be rectified and corrected as

19.10.1944. Thereafter, the appellant filed C.W.J.C No. 3265 of 2000 in this Court, challenging the said notice dated 12.7.2000. The learned Single Judge dismissed the writ application on 16.5.2002 observing that "there being disputed question of date of birth, this Court is not inclined to decide the issue under Article 226 of the Constitution of India. The petitioner may avail other remedy for decision of disputed question of date of birth."

3. In our opinion, it is not a case where the appellant has prayed for determination of his date of birth afresh by a Medical Board, rather his case is that while serving with the Eastern Railways his date of birth in Railway records was mentioned as 19.10.1944 and the same date of birth was shown in the Medical record-cum-Identity Card issued by Bhawanathpur Mines on 25.11.1992 and on this basis his age as recorded in the personal data form must be corrected. This question, in our view, cannot be decided in writ application. under Article 226 of the Constitution of India and we, therefore, are not inclined to interfere with the impugned order passed by the learned Single Judge. This appeal is dismissed.