

(2003) 02 JH CK 0057
In the Jharkhand High Court
Case No : Writ Petition (S) No. 3453 of 2001

Md. Khalil Ansari	Vs	APPELLANT
Bokaro Steel Plant and Others		RESPONDENT

Date of Decision : 26-02-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 3 JCR 503

Hon'ble Judges : Vikramaditya Prasad, J

Bench : Single Bench

Advocate : V.P. Singh and B.K. Sinha, for the Appellant; Rajeev Ranjan, for the Respondent

Final Decision : Dismissed

Judgement

Vikramaditya Prasad, J.—This is one more case in which the petitioner has challenged the recording of the date of birth as entered into Annexure-2. According to the petitioner, his actual date of birth is 4.12.1950, which is proved from the Medical Book issued by the respondents and therefore, the petitioner prays for issuance of mandamus upon the respondents to make necessary correction in the date of birth as recorded in the personal file of the petitioner and not to make interpolation in it (emphasis stressed).

2. The contention of the petitioner has been countered by the respondents. In a supplementary affidavit filed by the respondents on the direction of the Court, the Original Form giving the detailed bio data of the petitioner interviewed for the post of Khalasi on 29.6.1972 has been produced, regarding which some doubt had been expressed by the learned Sr. Counsel for the petitioner.

3. Another document is Annexure-A. These are the personal data of the petitioner. The age of the petitioner as on 15.12.1972 has been shown as 27 years and this has been signed by the petitioner. Originally, it appears that the date of birth of the petitioner was shown as 4.12.1950 and the estimated age

was 22 years. The aforesaid estimated age of 27 years as on 15.12.1972 was written after penning through this line (4.12.1950, 22 years).

4. The learned counsel appearing for the respondents has said that when the petitioner had appeared after interview and the personal data have been filled up, which was signed by the petitioner, as in Annexure-B, the date of birth was not given, but on 29.6.1972 his estimated age was 27 years and when such a mistake was detected in Annexure-A, then it was corrected and the petitioner signed this corrected/freshly estimated age, which is in conformity with Annexure-A.

5. Learned Sr. Counsel appearing for the petitioner has argued that this petitioner has signed these two documents, Annexure-A and B, in Hindi whereas the contents written in these documents are in English, therefore, he does not know what are the actual entries made therein as he does not know English.

6. If this argument of the learned Sr. Counsel appearing for the petitioner is accepted, then the entire writ petition will fall on the ground as the writ petition is filed in English and has been signed by the petitioner in Hindi. Therefore, I am restraining myself from entertaining this argument raised by the learned Sr. Counsel appearing for the petitioner.

7. Two documents have been relied by the petitioner, Annexure-1 and 2. Annexure- 1 is a Medical Record-cum-Identity Book, which was prepared on 21.7.1987 and the date of birth recorded in 4.12.1950. Similarly, the date of birth recorded in Annexure-2, which is also a Medical Form is 15.12.1945, after cutting the original age. Learned Sr. Counsel, therefore, wants to emphasize that as per Annexure-1, the date of birth of the petitioner is 4.12.1950. These two documents, Annexure-1 and 2, cannot be treated to the document of determination of age. Hardly they can be collateral evidence of the date of birth because when a Board is constituted and a person is medically examined for the purpose of determination of age, then the method of the determination of age is recorded therein and the finding is given by the Board as to what the estimated age would be. Whereas in such documents, like medical prescription, his date of birth in Annexure-1 and 2, only the estimated age either said by the petitioner/appreciated or felt by the Physician is recorded without any bonafide evidence. Had there been a medical determination of the age and the document thereof would have been produced, then that would have been examined/appreciated in that perspective. Therefore, Annexure-1 and 2 cannot be a substantial documents for determination of the age. There being collateral evidence of age is concerned, this goes against the Annexure-A, particularly Annexure-1. This document was prepared as back as on 15.12.1972 and it has been signed by the petitioner, then no controversy with regard to this entry was raised by the petitioner any time prior to the filing of this writ petition. Therefore, if something has been recorded even after correction and that has been signed by the petitioner, then the petitioner cannot say that this is an interpolation and that the entries made therein are not known to him because he does not know English,

for the reasons given earlier.

8. In the aforesaid view of the matter, I am not in agreement with the argument of the learned Sr. Counsel appearing for the petitioner and the contents made in the writ petition that as there has been interpolation in Annexure-A, the date of birth of the petitioner should be 4.12.1950 as originally entered into.

9. With the aforesaid observations/ directions, this writ petition is dismissed.