

(2012) 09 JH CK 0226
In the Jharkhand High Court
Case No : CWJC No. 4104 of 1996 (R)

Messrs Heavy Engineering Corporation Limited	APPELLANT
Vs	
The Presiding Officer, Labour Court and Another	RESPONDENT

Date of Decision : 13-09-2012

Acts Referred:

Citation : (2012) 4 JLJR 402

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : Rajesh Kumar, Manindra Kumar Sinha and Amit Kumar, for the Appellant;

Final Decision : Allowed

Judgement

Alok Singh, J.—Respondent No. 2, workman stood retired on 30.6.1992 on attaining the age of superannuation of 58 years. In the record her date of birth was recorded as 1.7.1934. After the retirement a reference was made to the Labour Court vide Reference dated 22.7.1992 to decide as to what is the correct date of birth of the workman. The learned Tribunal vide impugned Award dated 31st July, 1996 had directed the Management to treat 5.10.1936 as the correct date of birth of the petitioner and to pay the wages for the period, the petitioner otherwise would have worked after 30.6.1992.

2. Feeling aggrieved, Management had filed the present writ petition way back in the year 1996. Implementation of the impugned Award was stayed by this Court vide order dated 1.9.1997. In the order sheet of 24.9.2003, it is specifically mentioned that workman respondent no. 2 has died in the year 1998. There is no representation on behalf of the respondent no. 2 workman.

3. It is settled principle of law that the dispute with regard to the date of birth should not ordinarily be allowed to be agitated at the fag end of the service career or more particularly after the retirement. As per the prevailing practice in the Corporation, dispute with regard to date of birth of the workman was

referred to the Medical Board and as per the opinion of the Medical Board the date of birth of the respondent no. 2 was assessed and recorded as 1.7.1934.

4. Considering the totality of the facts and circumstances of the case, I find that the learned Tribunal without taking into consideration all the records of the Corporation, wherein date of birth of the respondent no. 2 was mentioned as 1.7.1934 had passed the impugned award. There is no explanation on behalf of the workman as to why workman has not approached the forum for correction of date of birth at the earliest. Laches and inordinate delay has not been explained properly. Therefore, in my opinion the impugned Award dated 31st July, 1996 cannot be sustained in the eyes of law. Accordingly, present petition is allowed and the impugned Award dated 31st July, 1996 is hereby set aside.