
(2013) 01 JH CK 0074

In the Jharkhand High Court

Case No : Writ Petition (S) No. 164 of 2004

Ram Lakhan Mahto

APPELLANT

Vs

Jharkhand State Electricity Board and Others

RESPONDENT

Date of Decision : 24-01-2013

Acts Referred:

Citation : (2013) 2 AJR 745 : (2013) 3 JLJR 674

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Ritu Kumar and Mr. Vikash Kumar, for the Appellant; Mukesh Kumar, Senior Standing Counsel and Suraj Kumar Verma, Addl. S.C., for the Respondent

Final Decision : Allowed

Judgement

S. Chandrashekhar, J.—This writ petition has been preferred seeking quashing of letter contained in Memo No. 84 dated 31.01.2003 issued by Electric Executive Engineer, Electric Supply Circle, Pakur, whereby and whereunder, the petitioner has been made to retire w.e.f. 31.07.2003 and for other relief's. The petitioner was appointed as Lineman in Bihar State Electricity Board and he joined duty on 15.09.1964. The date of birth of the petitioner has been recorded in the service book as 08.09.1946. It has been averred in the writ petition that since the petitioner had no documentary evidence of his date of birth at the time of joining the service, he was medically examined by the Medical Board and as assessed by the Medical Board his date of birth was recorded as 08.09.1946 in his service book. Relevant extract of the service book, which has been signed by the Electrical Engineer, Rural Electric Supply Division has been filed as Annexure-1. This records the date of birth of the petitioner as 08.09.1946.

2. It appears from the writ petition that in the year 2000, the petitioner was directed to appear before the Medical Board for assessment of his age. No reasons was assigned by the respondents why the petitioner was directed to appear before the Medical Board for assessing his age after more than 35 years of service. The decision of the Medical Board was never communicated to the

petitioner and vide letter dated 31.07.2003 the petitioner was intimated by the Electrical Executive Engineer, Electric Supply Circle, Pakur that he would be superannuated w.e.f. 31.07.2003. The petitioner was directed to made available all the relevant papers so that his retrial benefits can be given to him. Aggrieved by letter dated 31.01.2003, the petitioner has filed the present writ petition seeking quashing of the aforesaid letter issued by the Electrical Executive Engineer.

3. A counter-affidavit has been filed on behalf of the respondents-the Jharkhand State Electricity Board, sworn by one Mr. Ashok Kumar Mishra, who was posted as Law Officer in Jharkhand State Electricity Board, Ranchi. Nowhere in the counter-affidavit the averment made in the writ petition particularly in paragraph No. 8 of the writ petition has been denied by the respondents. Paragraph 8 of the writ petition is extracted herein below:

Para 8 - That it will be pertinent to mention here that as the petitioner had no documents in support of his date of birth and as such he was medically examined by the Board itself and his date of birth was recorded as 8.9.1946 in his Service Book on the basis of this Medical Examination which was recorded in the Service Book also.

4. On 14.06.2006 this Court permitted the respondent to file an affidavit giving the details of any enquiry held for change of the date of birth of the petitioner. The matter was again heard on 12.04.2012 when one more opportunity was granted to the respondent to file an affidavit as permitted vide order dated 14.06.2006.

5. A supplementary counter-affidavit on behalf of respondent Nos. 1 to 4 has been filed on 07.09.2012, wherein it has been stated that there has been no enquiry held as indicated in order dated 04.06.2006 and the date of birth assessed by the Medical Board, which submitted its report on 20.06.2000, has been accepted as final by the respondents.

6. From the facts of the case as stated in the writ petition and the counter-affidavit filed by the respondents, I find that when the respondents themselves had constituted a Medical Board for assessing the age of the petitioner at the time of his joining the service, there is no justifiable reason for the respondents to doubt the said assessment of the Medical Board, that too after a lapse of more than 35 years. Further, the averments made in the writ petition with respect to the age of the petitioner as assessed by the Medical Board at the time of joining his service, has not been denied by the respondents.

7. In view of the aforesaid facts, I find that letter dated 31.01.2003 issued by the Electrical Executive Engineer, Electric Supply Circle, Pakur, intimating the petitioner to be superannuated w.e.f. 31.07.2003 is arbitrary and illegal. In view of the aforesaid facts and circumstances, this writ petition is allowed. The order contained in letter dated 31.01.2003 is hereby quashed and the respondents are directed to give all admissible benefits to the petitioner.