

(2018) 04 JH CK 0037
In the Jharkhand High Court
Case No : W.P. (S) No. 5684 of 2006

SHEO PRASAD SINGH

APPELLANT

Vs

INDIAN IRON & STEEL COMPANY (NOW UNDER SAIL)

RESPONDENT

Date of Decision : 10-04-2018

Acts Referred:

Constitution of India, — Section 226

Citation : (2018) 04 JH CK 0037

Hon'ble Judges : Pramath Patnaik, J

Bench : Single Bench

Advocate : Shailesh, Kaustav Panda

Final Decision : Dismissed

Judgement

Pramath Patnaik, J.:

1. In the instant writ application, the petitioner has sought for issuance of writ of mandamus, commanding upon the respondent no.2 to rectify the date

of birth entry made in the computer record of the company, which is contrary to all the entry made in the statutory records of the company i.e.

Matriculation Certificate, Mining Sardar Certificate, Gas Testing Certificate, Mining Rescue certificate, and the petitioner has sought for declaration

that the age of the petitioner in the statutory records to be treated as 29.10.1953 for the purpose of his retirement on attaining the age of

superannuation.

2. The factual matrix, as has been delineated in the writ application in a nut shell is that the petitioner passed Matriculation from Bihar School

Examination Board and as per the certificate, the date of birth has been recorded as 29.10.1953 as evident from Annexure-1 to the writ petition. The

petitioner joined the Jitpur Colliery on 27.10.1971. In the year 1976 the petitioner passed the Mining Sardar Examination and as such Sardar's

certificate was granted on 17.02.1983 under the Mines Act 1952, whereas the date of birth of the petitioner has been mentioned as 29.10.1953 as per

the Annexure-2 to the writ petition. Similarly in other records like Gas Testing Certificate, Rescue Certificate and other statutory records, the date of

birth of the petitioner has been mentioned as 29.10.1953. Since, in one of the old record of the company, the date of birth of the petitioner was

mentioned as 23.10.1947, the petitioner being apprehensive of premature superannuation submitted representation which did not evoke any response

from the respondent authority. Being aggrieved by the inaction of the respondents in not rectifying the date of birth, the petitioner has been constrained

to knock the doors of this Court under Article 226 of the Constitution of India for redressal of his grievance.

3. Controverting the averments made in the writ application, a detailed counter affidavit has been filed on behalf of the respondents. In the counter

affidavit, it has been submitted that the writ petition is not maintainable either in law or in facts and is fit to be dismissed in limine on the ground of

inordinate delay, laches and negligence. It has been stated in the counter affidavit that petitioner knowingly concealed his matriculation certificate at

the time of joining in the year 1971, though he has alleged to have been passed prior to his joining. The date of birth recorded at the time of joining was

23.10.1947 in absence of any documentary proof relating to his age/date of birth and accordingly the petitioner was rightfully superannuated from the

services of the company on 31.10.2007. As per the company's rule/policy, the age recorded at the time of joining shall be treated as final and

binding. Subsequent changes by virtue of statutory qualification attained at a later date much after joining cannot be entertained for the purpose of

correction of date of birth, photo copy of the relevant Date of Birth Rule of SAIL has been annexed as Annexure-B to the counter affidavit. It has

further been submitted that there is no document in the name and style of non-executive information service and, therefore, in absence of any

documentary proof relating to his date of birth/age at the time of joining, the age assessed by the company's medical officer prior to joining and as

per records contained in B-Form register, the date of birth of the petitioner stood

as 23.10.1947. Therefore, making constant representations as alleged by the petitioner, do not bestow any automatic right in change of the date of birth/age to what has been recorded at the time of joining.

4. Another counter affidavit on behalf of respondents has been filed annexing the photo copy of Form-X and Data Base of Employees as Annexure-A

to the counter affidavit, wherein the date of birth recorded in service excerpts at the time of joining is 23.10.1947.

5. After having heard the learned counsel for the respective parties at length and on perusal of the record, the relief sought for by the petitioner is not

entertainable in view of the rules of the company regarding determination of date of birth. In view of the said rule, the date of birth at the time of

joining of the petitioner was 23.10.1947 and basing on the said date of birth, petitioner was supposed to attain the age of superannuation on 31.10.2007

and since as per the company rule, age recorded at the time of joining shall be treated as final and binding and there is no scope for change of date of

birth much after date of joining. Â So far dispute regarding date of birth is concerned; it is no more res integra that the date of birth dispute at the fag

end of service career cannot be entertained.Â

6. The view of this Court gets fortified by the decision of Honâ??ble Apex Court reported in the case of Burn Standard Co. Ltd. & Ors. Vs.

Dinabandhu Majumdar & Anr. as reported in AIR 1995 SC 1499, wherein the Honâ??ble Apex Court in unequivocal terms has enunciated that writ

petition for correction of date of birth at the fag end of service with object of continuing in service ordinarily should not be entertained.

7. Hence, this Court is not inclined to accede to the prayer of the petitioner. Accordingly, the writ petition sans merit is dismissed.