
(2014) 06 AP CK 0175
In the Andhra Pradesh High Court
Case No : Writ Appeal No. 690 of 2014

The Singareni Collieries Company Limited	APPELLANT
Vs	
A. Raja Murali	RESPONDENT

Date of Decision : 09-06-2014

Acts Referred:

Citation : (2014) 6 ALD 404 : (2014) 6 ALD(Cri) 404 : (2014) 5 ALT 711

Hon'ble Judges : L.N. Reddy, J; Challa Kodanda Ram, J

Bench : Division Bench

Advocate : Nandigam Krishna Rao, Advocate for the Appellant; N. Vijay, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Challa Kodanda Ram, J.—This appeal is directed against the order dated 07.08.2013 passed by the single Judge of this Court in W.P. No. 20029 of 2005.

2. The parties to the proceedings are referred to as they are arrayed in the writ petition.

3. The writ petition was filed by the petitioner questioning the proceedings Ref. No. RGI/Gdk 1/W-03/04/984 dated 26.03.2004 issued by the respondent determining his age as 25 years as on 12.01.1971. The case of the petitioner is that he was initially appointed as Badli Coal Filler Casual worker in the respondent-company vide order No. K2/Est/4/71/803, dated 22.04.1971. He stated that in the school records, his date of birth was mentioned as 10.02.1950 and as per the said entry he was aged about 21 years as on the date of joining in the respondent-company, but the respondent mentioned his age as 25 years, instead of mentioning it as 21 years in his service register. His case is that the recruiting officials neither asked him to produce his date of birth certificate nor school leaving certificate in proof of age, and they made self assessment just by looking at him and incorporated his age as 25 years in his service register, and that it was not communicated to him, at any point of time.

4. The petitioner stated that he passed various examinations under the Mines Act and under Coal Mines Regulations, 1957 and obtained Shot Firer's Certificate, SIRDAR Certificate and Over man's Certificate and in all the said certificates his date of birth was mentioned by the Chairman of Board of Mining Examinations as 10.02.1950. It was also stated that after joining the respondent, petitioner passed SSC and in the said certificate also his date of birth was mentioned as 10.02.1950. He has also referred to certain certificates, said to have been issued by a school. He alleged that the respondent issued proceedings dated 26.03.2004 without any basis, assessing his age as 25 years and fixing his date of superannuation as 31.01.2006 instead of fixing the same as 10.02.2010.

5. The respondent-Company had filed counter-affidavit denying the averments made in the writ petition and stating that at the time of appointment, the petitioner was examined by the Company's Medical Officer and his age was assessed as 25 years as on 12.01.1971 and the same was entered in his service register and the petitioner had also affixed his thumb impression in the service book as a token of acceptance. So far as the date of birth mentioned in various certificates are concerned, it was the contention of the respondent-Company that the said entries were made at the instance of the petitioner and that the assessment made by the respondent-Company with regard to the date of birth is inconsonance with the guidelines and regulations of JBCCI. It was also pleaded that considering the discrepancy about mentioning of the date of birth of the petitioner in service register, the petitioner was called for determination of age by the Area Age Determination Committee on 08.01.2004 and the said committee assessed and confirmed the age of the petitioner as 25 years as on 12.01.1971 and accordingly the impugned notice dated 26.03.2004 was issued to the petitioner informing the date of his superannuation as 31.01.2006.

6. The learned single Judge allowed the writ petition accepting the contention of the petitioner. Aggrieved thereby, the respondent-company filed the present writ appeal.

7. Learned counsel for the respondent would submit that the learned single Judge erred in treating a document said to have been issued by the Head Master of Primary School, as admission certificate, whereas a cursory reading of the same would disclose that it just, a declaratory form which is required to be filled on behalf of the student for admission into the school. He submits that there is no authenticity for that document. He would also point out that the Board of Secondary Education Certificate would reveal that the petitioner had appeared as a private candidate and in such cases, certificate cannot be the basis, as the authorities would mention the date of birth as per the application made by the candidate while seeking permission, to appear as a private candidate. He submits that the other certificates issued by the authorities under the Act also cannot be the basis, as the authorities would only be mentioning the date of birth, as furnished by the petitioner inasmuch as and when there is no independent verification or authentication process could be carried out by those

authorities for ascertaining the date of birth.

8. The learned counsel for the petitioner would submit that there was never any doubt about the genuineness of the certificates issued by the various authorities under the Statute. He submits that a duty is cast on the respondent-Company to accept the certificates issued in the light of the guidelines issued in Annexure-I under the heading "Implementation Instruction No. 76 Procedure for Determination/Verification of Age of Employees" wherein sub para No. (i)(b) of para (B) mandates treating of the date of birth mention in the Mining Sirdarship, Winding Engine or similar other statutory certificates as authentic. Accepting to him, there are no merits in the writ appeal.

9. The post of Badili filled is an unskilled one. If at the time of recruitment there is authenticated proof of date of birth it is ascertained through medical examination and the age is entered in the service record. None of the certificates relied upon by the respondent were in existence at that time. Therefore, they would be of no help to the petitioner, as, admittedly they came into existence much after he entered the service. So far as certificates issued under the Mines Act are concerned there is no basis for any of the authorities to enter the date of birth of the petitioner as 10.02.1950. The reason is that it is not supported by any material. The mechanism provided for in the respective Acts does not relate to determination of the date of birth. The mentioning of the date of birth in the certificates issued by Sirdarship, Mines, Shot Firer's under the Mines Act is only to ensure that the certified person is medically fit and of the age to enter into the service record.

10. Regulation No. 12 of Coal Mines Regulations, 1957 (for short, "the Regulations"), empowers the Board Constituted under Regulation No. 11 of Regulations, to issue various certificates viz., (a) Manager's first class certificate of competency to manage a coal mine, (b) Manager's second class certificate of competency to manage a coal mine, (c) Surveyor's certificate of competency to survey the workings of a mine, (d) Overman's certificate of competency to carry out inspections and duties as required under these regulations, (e) Sirdar's certificate of competency to carry out inspections and duties as required under these regulations, and (f) Winding engineman's 1st class certificate.

11. Regulation No. 15 of the Regulations prescribes the age qualification to appear for examination as 20 years. Regulation No. 15(1)(c) of Regulations makes it mandatory for a person appearing for the examination for any of the certificates mentioned in Regulation No. 12 of the Regulations to submit a certificate of age granted by specified authorities, one of such certificate, being the Higher Secondary School Certificate. In the present case, admittedly, in all the certificates relied upon by the petitioner, the date of birth has been mentioned on the basis of the information furnished by the petitioner himself, and as per the S.S.C which was obtained in the year 1974. In those circumstances, no reliance can be placed on the date of birth as mentioned in any of those certificates.

12. In the above facts and circumstances of the case, and in view of the fact that the petitioner had worked beyond the superannuation i.e., 31.01.2006 and upto 31.01.2011 on account of the interim order dated 03.10.2005 passed by the single Judge of this Court in W.P.M.P. No. 25477 of 2005 in W.P. No. 20029 of 2005, we deem it appropriate to allow the writ appeal.

13. Accordingly, the writ appeal is allowed. It is however, directed that the respondent/petitioner shall not be entitled to any retirement benefits for the service, which he rendered on the strength of the interim order except for the amounts which he contributed under the relevant provisions of law together with the contributions of the Government. The appellant/respondent shall not be entitled to recover the salary, paid for the period, beyond the age of superannuation. No order as to costs.

14. Miscellaneous Petitions, if any, pending in this writ appeal shall stand closed.