

(2009) 10 JH CK 0066
In the Jharkhand High Court

Uma Shankar Singh

APPELLANT

Vs

Central Coalfields Limited and Others

RESPONDENT

Date of Decision : 28-10-2009

Acts Referred:

Citation : (2009) 10 JH CK 0066

Hon'ble Judges : Sushil Harkauli, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sushil Harkauli, J.—The petitioner has approached this Court in the discretionary and equitable writ jurisdiction for rectification of his Date of Birth from 1.10.1950 to 10.8.1955. This writ petition has been filed in the year 2009 when the petitioner is approaching his age of superannuation. The foundation of his claim is a matriculation certificate in which the petitioner's Date of Birth is mentioned as 10.8.1955. The petitioner has placed reliance upon a Full Bench decision of this Court in the case of "Kamta Pandey v. BCCL and Ors. reported in 2007 (3) JCR 681.

2. The said decision emphasises the relevance of the Date of Birth recorded in the matriculation certificate, but on the facts of the present case, I do not find that decision to be applicable because admittedly the petitioner was employed in the Central Coal Fields Limited which is a Government undertaking on 17.3.1972. If the Date of Birth espoused by the petitioner is accepted to be correct then on the date of appointment the petitioner would have been less than 18 years of age.

3. It appears to be quite apparent that the petitioner in order to get that employment at that time misrepresented his Date of Birth as 1.10.1950 which was accordingly recorded in the service record and the employment was granted. After obtaining employment and serving for some time, the petitioner moved for rectification of the Date of Birth on the basis of matriculation certificate which

though obtained earlier but was filed later, meaning thereby which was withheld, for obvious reason, at the time of obtaining employment. The petitioner's contention that the matriculation certificate was obtained later is an eye wash. Marks sheets are supplied immediately after matriculation result and marks sheet also contain the Date of Birth. Therefore, this excuse of obtaining matriculation certificate later is just to cover-up the earlier misconduct of the petitioner in giving wrong Date of Birth for the purpose of obtaining employment before he became eligible age-wise.

4. Considering the fact that the petitioner is under the discretionary jurisdiction of this Court, it would not be appropriate to allow him to have an advantage at both ends, first at the time of obtaining employment and thereafter getting superannuation extension.

5. The learned Counsel for the petitioner has relied upon an unreported decision of a learned Single Judge of this Court dated 10.7.2009 pronounced on 31.7.2009 in W.P.(S) 4181 of 2008 in paragraph 18 of which the aspect of initial appointment at an age less than 18 years was examined. The facts of that decision were that the establishment where the employment took place was under a private management and therefore, the strict age of 18 years for getting employment was not found necessarily to be applicable. In the present case, it has not been shown that on the date when the petitioner obtained employment in the Central Coal Fields Limited i.e. 17.8.1972, the Central Coal Fields Limited was under any private management which could have permitted employment of a person who was less than 18 years of age. Therefore, the decision of the learned Single Judge also is quite distinguishable.

6. Considering the circumstances, I am not inclined to exercise my discretionary jurisdiction in favour of the petitioner on the facts of this case.

7. This writ petition is dismissed.