

**THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD**

**WRIT PETITION No.39325 of 2018**

**ORDER:**

This writ petition is filed challenging the action of the respondents in not changing the date of birth of the petitioner in his service record as per the Medical certificate, dated 15.07.2014 issued by the Osmania General Hospital, Hyderabad, as illegal and arbitrary and further direct the respondents to pay the salary from 31.03.2017 till his legal superannuation date along with other statutory benefits as the petitioner is a deemed employee of the respondent company.

2. Heard Sri Ch.Venkat Raman, learned counsel for the petitioner and Sri J.Sreenivasa Rao, learned standing counsel for Singareni Collieries – respondents 1 to 3.

3. It is the case of the petitioner that he joined in the service and worked as Tyndol in the 1<sup>st</sup> respondent company at Goutham Khani, Kothagudem, Khammam District and his brother is also working in the respondent company, who is five years elder than him, but in the company records his age is wrongly noted as 20.03.1957 instead of 03.07.1962. As per the Transfer Certificate and other educational certificates, the original date of birth of the petitioner is 03.07.1962. After noticing the mistake of date of birth as 20.03.1957, the petitioner made an application to the respondents for correction of his date of birth in his service register. On

03.09.2013, the respondents directed the petitioner to appear before the Age Determination Committee for determination of his age and thereafter, they referred to the Superintendent, Osmania General Hospital, Hyderabad on 25.06.2014 to assess the age of the petitioner through Forensic Medicine Department. The said hospital authorities examined the petitioner on 15.07.2014 and by letter dated 09.07.2014 they informed that the age of the petitioner as on 15.07.2014 is 55 years. However, even after receiving the letter from the said hospital, the respondents did not act upon. Therefore, the petitioner made an application to the respondent company on 21.03.2017 to correct the date of birth in his service records and he is going to retire on 30.07.2017. But the respondents have not changed the date of birth in the service record.

4. Learned counsel for the petitioner contended that in pursuance of his request made to the respondent company they have considered and referred to the medical council and that the medical council determined that as per the Professor and Head of the Department of Forensic Medicine opinion, the age of the petitioner is 55 years as on 15.7.2014 and on the strength of the same, learned counsel for the petitioner contended that the petitioner is entitled for all the service benefits.

5. Learned standing counsel for the respondent company would submit that the petitioner has not submitted the date

of birth certificate or any proof of the same at the time of joining in service and on the self declaration of the petitioner and on the examination of the petitioner by the Age Determination Team of Singareni Collieries, the age of the petitioner was determined as 25 years and accordingly, he was appointed on 28.04.1982 and his date of birth was noted as 20.03.1957 ever since he was in service.

6. The learned standing counsel would further submit that the respondent company also issued one year advance notice and one month advance notice of retirement informing the petitioner on 29.02.2016 and 28.02.2017, and the petitioner has accepted the same.

7. For the reasons best known to the petitioner, on 14.02.2013, for the first time, he obtained transfer certificate and study certificate from the private school indicating that the date of birth of the petitioner is 03.07.1962 and on the strength of the same, he approached the Medical Team of the respondent company and the concerned medical officer without having proper knowledge, inadvertently referred the petitioner to the Age Determination Committee of Osmania General Hospital, Hyderabad and that the doctors examined the petitioner and issued certificate in favour of the petitioner indicating that the age of the petitioner is 55 years.

8. As per the norms of the respondent company, the Medical Team of the respondent company is not supposed to

refer the petitioner to Osmania General Hospital or to any other hospital and that the mistake committed by the referral doctor cannot be taken to the advantage of the petitioner. Further the petitioner retired on 31.03.2017 and that he has received all terminal benefits unconditionally.

9. Learned Standing Counsel has relied upon a judgment rendered by this Court in **Ram Brich Yadav (Died) as per LRs. V. Singareni Collieries Company Ltd., Khammam District & others**<sup>1</sup>, wherein, this Court held that any attempt to correct the date of birth in the fag-end of service is not permissible and contends that for three Decades, the petitioner has not raised any dispute with regard to his date of birth and only when he was about to retire in 2 or 3 years, the petitioner has sought correction of date of birth.

10. Learned standing counsel also relied on the judgment of the Apex Court in **State of Tamilnadu v T.V.Venugopalan**<sup>2</sup> wherein it was held that when the entry was made in the service record and when the employee was in service he did not make any attempt to have the service record corrected, any amount of evidence produced subsequently is of no consequence.

11. As seen from the record, admittedly, the petitioner having claimed his date of birth as 03.07.1962 has never chosen to contest the same till 2013 having joined in service

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<sup>1</sup> 2018 (2) ALD 249

<sup>2</sup> 1994(6) SCC 302

on 28.04.1982. The conduct of the petitioner in seeking correction of his date of birth from 20.03.1957 to 03.07.1962 after rendering service for over 30 years cannot be appreciated. The petitioner has not challenged the one year advance notice or one month advance notice of his retirement issued by the respondent company informing about his retirement. It appears to be the chance litigation by the petitioner at the fag end of his service invoking Article 226 of the Constitution of India with all infirmities.

12. Having regard to the facts and circumstances of the case and in view of the submission of learned standing counsel, the writ petition is liable to be dismissed.

13. Accordingly, the writ petition is dismissed. There shall be no order as to costs. Pending miscellaneous applications, if any, shall stand closed.

**T.AMARNATH GOUD**

Date: 25.02.2021

Note: L.R. copy to be marked

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