

Devrao Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Aug-23-2013

Appellant : Devrao

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. Rajneesh Gupta

Judgement :

WRIT PETITION No.14436/201

23. 08.2013 Shri Rajneesh Gupta, learned Counsel for the petitioner.

Shri Rahul Jain, learned Govt.

Advocate, for the respondents-State, on advance copy.

In view of the claim made by the petitioner in the present petition, learned Govt.

Advocate accepts notices of this writ petition and waives service.

The petitioner, said to be working as daily wager, is sought to retire on attaining the age of 62 years with effect from 31.08.2013 vide notice dated 30.07.2013 issued by respondent No.2.

It is the contention of learned Counsel for the petitioner that since the petitioner is illiterate, he has not made any declaration about his date of birth not any such date

of birth is recorded in the service record.

It is not clear from the notice of retirement that as to how it is said that the petitioner has attained the age of 62 years as no date of birth is mentioned in the said notice.

Thus, it is contended that in fact there is no record available with the respondents to hold that the petitioner has attained the age of 62 years and, therefore, he could not be retired prematurely.

Relying in the decisions in the case of Laxmi Narayan Agrawal versus State of M.P. and others. 2012(1) MPHT 169 and Bhai Lal Burma versus Food Corporation of India and others. 2013(1) MPLJ 334 it is put forth by learned Counsel for the petitioner that in case there was no material available with the respondents to ascertain the date of birth of the WRIT PETITION No. 14436/2013 2 petitioner, it was proper for the respondents to send the petitioner for medical examination and after getting the ossification test etc. done, determine the age of the petitioner.

Since this has not been done and the notice of retirement has been issued, the petitioner has approached this Court.

Learned Govt.

Advocate fairly states that in case there is no record of date of birth of the petitioner available, it would be proper for the respondents to send him for medical examination before the Medical Board.

Considering the aforesaid, it is directed that the petitioner be put for medical examination and ossification test for the purposes of verification of his age as on the date of test.

In case after obtaining the medical report it is found that the petitioner has not attained the age of 62 years. He be allowed to continue in the employment with all consequential benefits.

Let it be done within a period of one month from the date of receipt of certified copy of the order passed today and reasoned order be communicated to the

petitioner.

The writ petition is accordingly disposed of.

Certified copy as per rules.

(K.K.Trivedi) Judge Skc

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