

Tapan Kumar Vs. B C C L Through Chief Managing Director and Ors

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Court : Jharkhand

Decided On : Jul-12-2016

Appellant : Tapan Kumar

Respondent : B C C L Through Chief Managing Director and Ors

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 5969 of 2014
Tapan Kumar Petitioner Versus 1. B.C.C.L. (Bharat Coking Coal Limited),
through Chief Managing Director, Dhanbad.

2. Director Personnel, B.C.C.L., Dhanbad.

3. General Manager, B.C.C.L., Dhanbad.

4. Chief Personnel Manager, B.C.C.L., Dhanbad. .. Respondents ----- CORAM :
HONBLE MR. JUSTICE H. C. MISHRA ----- For the Petitioner : M/s Manoj
Tandon, Binod Kumar & Shiv Shankar Kumar, Advocates For the Respondent :
M/s Indrajit Sinha, Nagmani Tiwari & Kaustav Panda, Advocates ----- 6/
12.07.2016 Heard learned counsel for the petitioner and learned counsel for the
respondents. The petitioner was working as General Mazdoor in Bharat Coking
Coal Limited (BCCL), after being appointed as such by letter dated 30/31.10.1996,
issued by Chief Personnel Manager (MP&R), BCCL, as contained in Annexure-1
to the writ application. The verification roll was submitted by the petitioner on
23.12.1996, wherein, the date of birth of the petitioner was shown as 20.10.1964,

which was based on the transfer certificate issued by Headmaster, Industry Middle School, Jharia, where the petitioner was studying in Class-VII, according to which, the date of birth of the petitioner as entered in the school record was 20.10.1964 (Annexure-3). The grievance of the petitioner is that on 14/22.7.2014 the impugned letter was issued by the Chief Manager, BCCL, whereby, he was informed that he shall be completing his age of 60 years on 7.11.2014 and accordingly, he was to superannuate from service on 30.11.2014. This letter has been brought on record as Annexure-6 to the writ application. However, a letter dated 30.1.1998 issued by the Deputy Chief Personnel Manager, P.B. Area, has been brought on record as Annexure-4 to the writ petition, addressed to the Chief Personnel Manager (MP&R), whereby, it was informed that the appointee (i.e., the petitioner) had been assessed 42 years of age by the Medical Board, whereas in the verification roll, the age of the petitioner has been shows as 32 years. It was also stated that the relevant original papers / documents had not been sent and the approval of appointment was also -2- not enclosed. Accordingly, the Chief Personnel Manager (MP&R) was requested for further needful action and further advice in the matter. The said letter was replied by the Chief Manager (MP&R) by letter dated 6/9.2.1998, as contained in Annexure-5 to the writ application, whereby the Chief Personnel Manager expressed surprise to the contents of the letter as contained in Annexure-4. It was informed that the petitioner was taken into employment after an Award as well as with a settlement and if it was found that certain documents were urgently required to allow the workman, they should have immediately been collected from the respective office, which was not done. Thereafter, the impugned order contained in Annexure-6, dated 14/22.7.2014 was issued, whereby the petitioner was informed that he shall superannuate from service on 30.11.2014. Learned counsel for the petitioner has submitted that the petitioner was surprised and taken aback by the letter dated 14/22.7.2014, as contained in Annexure-6 to the writ application, as prior to that, no information had been given to the petitioner that the age of the petitioner had been enhanced by the Medical Board, due to which, the petitioner was being made to superannuate on 30.11.2014. Learned counsel has accordingly, submitted that the impugned order passed by the Chief Manager, BCCL, is absolutely illegal and cannot be sustained in the eye of the law. No counter affidavit has been filed by the

respondents, in spite of giving more than adequate opportunity to the learned counsel for the respondents for the same. Learned counsel for the BCCL, however, has defended the action of the respondent-BCCL, by placing reliance upon Annexure-4 to the writ application, whereby, the Deputy Chief Personnel Manager, P.B. Area had informed the Chief Personnel Manager (MP&R) that the age of the appointee had been assessed as 42 years by the Medical Board. Learned counsel is, however, not in a position to give any reply to the query of the Court as to why this information was not given to the petitioner prior to issuance of Annexure-6, the letter dated 14/22.7.2014, whereby, the petitioner was informed that he was going to superannuate on 30.11.2014 on completion of age of 60 years. Learned counsel for the BCCL, however, placed reliance upon one representation dated 7.4.2014 addressed by the Secretary of the Worker's Union of the petitioner and another representation dated 5.8.2013 given by the petitioner himself, against the recording of age by the Medical Board as 42 years on the date of entry of his service, which have been brought on record as Annexures-7 and 8 to the writ -3- application. Learned counsel accordingly, submitted that the petitioner was well aware of the fact that the age of the petitioner had been enhanced by the Medical Board and he had also made representations against the same, prior to issuance of the impugned order as contained in Annexure-6 to the writ application. Other representations have also been filed by way of Annexure-8 series against the recording of the age of the petitioner by the Medical Board. Having heard learned counsels for both the sides and upon going through the record, I find that in view of the representations as contained in Annexure-7 and 8 series to the writ application, which have been brought on record by the petitioner himself, it cannot be believed that prior to issuance of the impugned order as contained in Annexure-6, the petitioner was not aware of the fact that the age of the petitioner had been assessed by the Medical Board as 42 years at the time of his entry into the service. The fact, however, remains that in absence of any counter affidavit on behalf of the B.C.C.L., there is nothing in the record to show that the representations of the petitioner have been disposed of by the concerned authorities. The petitioner has also already superannuated from service on 30.11.2014 itself. In that view of the matter, the respondent authorities are directed to dispose of the representations of the petitioner as contained in Annexures-7 and

8 series to the writ application, by a speaking order, within the period of four months from the date of communication / production of a copy of this order. This application is accordingly, disposed of with the direction as above. (H. C. Mishra, J.) R.Kr.

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