

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH
CIRCUIT SITTING AT RANCHI
OA/051/00139/2017**

Date of Order: 08.01.2019

C O R A M

**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

.....

Gopal Ram, son of Late Prasadi Ram, resident of Sector IID, Quarter No.1-203, Post Bokaro Steel City, PS-Bokaro, District-Bokaro.

.....Applicant.

By Advocate: - Mr. J.K. Dey, proxy counsel for Shri A.K. Singh

-Versus-

1. SAIL, Bokaro Steel Plant through the Managing Director, Bokaro Steel Plant, Ispat Nagar, PO/PS-Bokaro Steel City, Distt.-Bokaro, Jharkhand-827 001.
2. General Manager, Bokaro Steel Plant, Bokaro Steel City, Bokaro, PO & PS-Bokaro Steel City, Bokaro, Distt.-Bokaro, Jharkhand-827 001.
3. Personnel Manager, Works, SAIL, Bokaro Steel Plant, Ispat Nagar, Bokaro, PO & PS-Bokaro Steel City, Distt.-Bokaro, Jharkhand-827 001.
4. Executive Director (P&A), SAIL, Bokaro Steel Plant, Ispat Nagar, Bokaro, PO & PS-Bokaro Steel City, Distt.-Bokaro, Jharkhand-827 001.
5. The Chief Personnel Manager (Per/Works), SAIL, Bokaro Steel Plant, Ispat Nagar, Bokaro, PO & PS-Bokaro Steel City, Distt.-Bokaro, Jharkhand-827 001.Respondents

By Advocate: - Mr. Prabhat Kumar, Standing Counsel.

ORDER
[ORAL]

Per Jayesh V.Bhairavia, J.M.:- It is noticed that the present OA along with MA/051/00066/2017 has been taken up for hearing on 07.01.2019 and the learned counsel for the respondents made his submissions. However, none remained present for the applicant on that day. Therefore, with a view to give opportunity the case was

ordered to be adjourned for today. The following order was passed on 07.01.2019: -

“Considering the ground stated in MA, we are satisfied therefore, MA for condonation of delay in filing O.A is allowed. Accordingly, MA stands disposed of.

Heard I/c for respondents.

The learned counsel for respondents submitted that as per the personal records maintained by the office of the respondents, the date of birth of the applicant is 20th April 1950 which had been filled up by the applicant himself in the form. The I/c for respondents further submitted that however, the applicant had submitted an application on 04.08.2009 for correction of his date of birth as per medical book but the said claim cannot be sustained as per the extant rules of the respondents and also as per the Judgement passed by the Hon’ble Apex Court on 16th November 2010 in Civil Appeal No. 9704/2010 (SLP © NO.8779 of 2007) in the case of State of Maharashtra &Anr. vs Gorakhnath Sitaram Kamble&Ors. and also as per the Judgment passed by the Hon’ble Jharkhand High Court on 29.06.2018 in WP(S) 4153 of 2017 in the case of Aditya Kumar Chakraborty Vs M/s Bharat Coking Coal Limited (Annexure R/4 & R/5 refer). The I/c for respondents further contended that neither employer nor employee can raise the issue in correction of date of birth at the end of service.

Since I/c for applicant is not present hence last opportunity is granted to applicant to appear and plead his case tomorrow i.e 08.01.2019, failing which matter will be taken up as per the provision of rule 15 & 16 of CAT Procedure.”

2. Today none appeared for the applicant. One Mr. J.K. Dey, proxy counsel for the applicant requests that he has been instructed by Mr. A.K. Singh, learned counsel for the applicant that he is unable to remain present today. Therefore, he has sought for some time.

3. Since this Tribunal had made it clear from the aforesaid order that the case will be taken up for hearing in accordance with

provision of the Rules, request on behalf of the applicant is not accepted.

4. We have examined the material on record. It is noticed that the applicant was appointed as Sweeper and he joined Bokaro Steel Plant, Civil Engineering Department (Works) on 13.05.1974. Subsequently, he was transferred and posted at R&C Lab Department on 01.11.1974. It reveals that prior to the joining of the applicant as Sweeper in Bokaro Steel Plant, he was interviewed for the post of Sweeper on 30.08.1973 wherein he had filled up the requisite forms and had declared his date of birth as 20.04.1950. The said date of birth which was declared by him was recorded in the service record of the applicant for all purpose. The applicant has disputed his date of birth only on 04.08.2009 when he was served with letter dated 06.06.2009 intimating therein that he was going to complete 58 years of age and, therefore, he was directed to contact Personnel Department for Pension. The said letter dated 06.06.2009 issued by the respondents was amended vide their letter dated 22.01.2010 because he was actually completing 58 years of age as on 19.04.2008. The dispute raised by the applicant about correctness of his date of birth was answered by the respondents vide their letter dated 20.09.2009 intimating therein that his date of birth is 20.04.1950 as per the personnel record maintained by the respondents department. Thereafter, due to his superannuation the name of the applicant was separated from the roll of the Company. It is also

noticed that the respondents have placed copies of personal data which pertains to the applicant, wherein date of birth of the applicant has been recorded as 20.04.1950. The applicant has placed reliance on copy of one medical book issued to the applicant for the medical treatment, wherein the date of birth is mentioned as 04.03.1954(A/1) and based on this, he is claiming that the letter dated 06.06.2009 (impugned herein) issued by the respondents intimating the applicant that he is retiring on completion of 58 years of age, on the basis of his date of birth being 20.04.1950, is erroneous and the respondents are ought to have considered the claim of the applicant for correction of his date of birth by following the procedure prescribed in the Standing Order. The said submission is not tenable. There is no material on record that the applicant had submitted any proof about his date of birth as claimed by him as 20.04.1954, except Annexure-A/1 as referred above. That cannot be treated as sufficient proof. Neither the employer nor the employee can raise the issue of correction of date of birth at the fag end of service. The law laid down by the Hon'ble Apex Court in various judgments and the judgment and order relied upon by the respondents as referred hereinabove, is squarely applicable in the facts and circumstances of the present case. It is not in dispute that during entire service period the applicant never objected to the correctness of his date of birth. The plea of the applicant that he only came to know about recording of his date of birth as 20.04.1950 only after receipt of letter dated

06.06.2009 for settlement of his pension, the said submission cannot be accepted in view of above facts and circumstances.

5. Considering the factual matrix, we do not find any merit in the OA and, accordingly, it is dismissed.

Sd/-
(Dinesh Sharma)
Member (Admn.)

Sd/-
(Jayesh V.Bhairavia)
Member (Admn.)

srk/skj