

Supreme Court of India

Bharat Coking Coal Ltd. vs Presiding Officer And Anr. on 28 March, 1994

Equivalent citations: (1994) ILLJ 453 SC, 1995 Supp (2) SCC 598

Bench: K Singh, Y Dayal

ORDER

1. Special leave granted.

2. Jainarain Mahatha, respondent in the appeal herein, was working as pump operator in the service of the appellant-company. On June 3, 1986 the Medical Board (Apex Medical Board) constituted by the appellant-management medically examined the respondent and certified that the respondent, on the date of examination, was 58 years of age. On the basis of the medical report the respondent was permitted to work with the management for another two years and on his attaining the age of 60 years he was retired from service in June 1988.

3. After retirement, the respondent, raised a dispute which was referred by the Central Government to the Industrial Tribunal. The Tribunal came to the conclusion that the Medical Board constituted by the management was not adequately equipped with scientific expertise and as such the age of the workman was not correctly determined by the Medical Board. In that view of the matter the Tribunal directed that the workman be medically examined by the Civil Surgeon, Dhanbad for the purposes of determination of his age afresh. The writ petition filed by the management against the order of the Tribunal was dismissed by the High Court in limine.

4. We have heard learned Counsel for the parties. We are of the view that the Tribunal was not justified in setting aside the medical opinion regarding the age of the respondent-workman determined by the Medical Board constituted by the management. No objection was raised before the Tribunal regarding the competence of the doctors constituting the Medical Board. We fail to understand how the medical examination by the Civil Surgeon would be different than that of the Medical Board constituted by the management. The findings of the Tribunal are based on surmises and conjectures. In any case the respondent-workman was told on June 3, 1986 after his medical examination was done by the Board constituted by the management - that he was 58 years of age and could be retained in service for two more years. The workman did not challenge the opinion of the Medical Board at that stage. He raised the dispute only after retirement without any justification.

5. We allow the appeal, set aside the order of the Tribunal and that of the High Court and hold that the retirement of the respondent-workman at the age of 60 years in June 1988 was valid and in accordance with law. No costs.