

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 207 of 2021
with
I.A. No. 7606 of 2023

Pawan Kumhar Petitioner
 Versus

1. M/s Bharat Coking Coal Ltd through its Chairman-cum-Managing Director, Dhanbad.
 2. The Director Personnel of M/s Bharat Coking Coal Ltd, Dhanbad.
 3. The General Manager (Personnel), M/s Bharat Coking Coal Ltd., Dhanbad.
 4. The General Manager, Barora Area No.1, Bharat Coking Coal Ltd., Dhanbad.
 5. The General Manager, BCCL, Mines Rescue Station, Dhanbad.
- Respondents

CORAM : HON'BLE DR. JUSTICE S.N. PATHAK

 For the Petitioner : Mr. Suraj Singh, Advocate
 For the Respondents : Mr. Anoop Kumar Mehta, Advocate

10/ 12.02.2024 Heard the parties.

2. The petitioner has approached this Court with a prayer for a direction upon the respondents to correct the date of birth in the entire service records based on matriculation certificate as 9.10.1972 instead of 25.8.1967 which was wrongly entered by the respondents.

3. The petitioner was appointed as Minor Loader on compassionate ground on 30.10.1990 at Madhuban Colliery, Barora Area No.1 under the respondent-BCCL. It is stated in the writ petition that before joining in the present service, the petitioner appeared in the Matriculation Examination and the petitioner has duly submitted his admit card to the Management and therefore, the Area Personnel Manager vide Ref. No. 1228 dated 15.2.2000 has issued a letter to the Bihar School Examination Board for verification of the certificate. It is further case of the petitioner that during course of his service, he was promoted to the post of Mining Sardar, wherein the date of birth as mentioned in the matriculation certification has been mentioned in the relevant document as 09.10.1972. The petitioner represented before the respondents on 7.2.2006 when he came to know about the date of birth mentioned in the service excerpts as 25.8.1967, but the same was not considered and the petitioner's date of birth has been entered in the service

excerpts as 23 years as on 25.8.1967, which is incorrect. Therefore, he has been constrained to knock the door of this Court.

4. Mr. Suraj Singh, learned counsel appearing for the petitioner submits that the respondents are not justified in entering the date of birth as 23 years as on 25.8.1967 when the matriculation certificate was already available. Learned counsel further submits that even the respondents have considered the date of birth as 09.10.1972 while granting promotion to the post of Mining Sardar. Therefore, it was open for the respondents to enter the same date of birth as per matriculation certificate in the entire service excerpts including Form-B. Learned counsel further submits that the petitioner passed the matriculation examination before entering into the service and therefore, it cannot be said that it is a belated claim. It is the respondents who have made a wrong entry in the service excerpts. The petitioner is still in service and therefore, his date of birth should be corrected as per matriculation certificate. Hence, a direction be given to the respondents to act accordingly.

5. On the other hand, Mr. Anoop Kumar Mehta, learned counsel appearing for the respondents submits that the petitioner has raised the dispute for the first time in the year 2005 while he was appointed in service in the year 1990 itself. Learned counsel submits that since the petitioner did not submit the matriculation certificate at the time of joining and therefore, he was sent for medical examination. Thereafter, based on the medical assessment, the date of birth of the petitioner was entered in Form-B register as 23 years as on 25.8.1990 and the petitioner duly acknowledged the same by putting his signature. He further submits that all along the service period, the petitioner had accepted the date of birth mentioned in the Form-B register, which is a statutory form and binding upon the parties. Learned counsel further submits that it is one thing to say that the petitioner has raised the dispute for correction in the date of birth while in service, but the law is well settled that maximum period for correction in the date of birth in the service excerpts is ten years. Learned counsel submits that the petitioner had never submitted his matriculation certificate at the time of initial appointment and if at all he had submitted the matriculation certificate, there was no occasion for the respondents not to consider the date of birth in view of the matriculation certificate and send the petitioner for medical examination.

Hence, no interference is warranted in the writ petition and the same is fit to be dismissed *in limine*.

6. Having heard the learned counsel for the parties and having gone through the materials on record, this Court is of the considered view that no interference is warranted in the writ petition for the following facts and reasons:-

- (i) The petitioner was appointed in the year 1990. The petitioner has not submitted the matriculation certificate at the time of initial appointment. Therefore, he was sent for medical assessment and based on the report of the medical expert, the date of birth of the petitioner has been entered in Form-B, which the petitioner duly acknowledged by putting his signature.
- (ii) The petitioner has accepted the date of birth mentioned in the service excerpts particularly Form-B which is statutory Form for long 16 years, which was never disputed.
- (iii) It is well settled that dispute in relation to date of birth can be raised within a maximum period of ten years. In the instant case, the petitioner has raised the dispute after 16 years.
- (iv) The similar issue fell for consideration before this Court way back in the year 2004 in the ***Civil Paswan Vs. State of Jharkhand & Ors.***, reported in **(2005) 4 JLJR 344 (HC)**, wherein the Court has declined to interfere in correction of date of birth after long 33 years. The relevant para-8 reads thus:-

“Keeping in view the above facts and circumstances, this Court is not inclined to direct the respondents to correct the date of birth of petitioner after 33 (thirty three) years of his appointment he having knowledge of his date of birth ten years back; as such the decisions relied upon by the petitioner is of no help to him.”

- (v) Further, the Hon’ble Supreme Court in the matter of delay and laches held that writ petition in service matters is not maintainable after a long delay. Admittedly, after a gross delay of about 16 years, the petitioner woke-up from deep slumber and filed the present writ petition, which is hopelessly barred by limitation in view of the celebrated judgment of the Hon’ble Apex Court in the cases of ***Naib Subedar Lachhman Dass Vs. Union of India***, reported in **AIR 1977 SC 1979**, wherein, Their Lordship while dismissing the writ petition

observed that “for the first time in September, 1970 the appellant invoked the extra-ordinary powers of the High Court under Article 226 of the Constitution for challenging the legality of an order dated 21.12.1966. The writ petition was filed after a gross delay for which there is no satisfactory explanation and, therefore, the High Court was justified in dismissing it summarily”

- (vi) Further, the Hon’ble Apex Court in case of **Chennai Metropolitan Water Supply and Sewerage Board & others Vs. T.T. Murali Babu**, reported in **(2014) 4 SCC 108**, has held as under:

“Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant – a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis. In the case at hand, though there has been four years’ delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others’ ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons - who

compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold."

7. As a sequitur to the aforesaid rules, regulations, guidelines and judicial pronouncements, I do not find any merit in the writ petition which warrants any interference.

8. The writ petition and the aforesaid interlocutory application stands dismissed.

(Dr. S.N. Pathak, J.)

R.Kr.