



AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 16 of 2022

Budhram S/o Dukalu Aged About 64 Years, Dumper Operator (Retire),  
R/o Village Singuldeeh, Post Loharshi, Police Station Shivrinarayan,  
District Janjgir-Champa (C.G.) Mob-6261359132

---- Petitioner

**Versus**

1. Coal India Ltd. Through Its Chairman 10 Netaji Subhash Road  
Calcutta (West Bengal)
2. South Eastern Coalfields Limited Chairman-Cum-Managing  
Director, Seepat Raod Bilaspur, District Bilaspur (C.G.)
3. Sr. Area General Manager, South Eastern Coalfields Limited  
Chirmiri, Opencast Project, P.O. Chirmiri, District Koriya (C.G.)
4. Sub Area Manager South Eastern Coalfields Limited Chirmiri,  
Opencast Project P.O. Chirmiri, District Koriya (C.G.)
5. Area General Manager (Personel) South Eastern Coalfields  
Limited Kursiya Colliery, Opencast Project P.O. Kursiya, District  
Koriya (C.G.)

---- Respondents

For Petitioner	:	Mr. Vijay K Deshmukh, Advocate
For Respondents No.2 to 5	:	Mr. Vinod Deshmukh, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

07.01.2022

1. Heard.
2. The instant petition has been filed in the background of the fact  
that the actual date of birth of the petitioner is 07.12.1957, but  
erroneously without considering the representation, which was made



much prior before the date of retirement, the petitioner was made to retire on 30.09.2011, which was communicated to him on 15.02.2011.

3. Learned counsel for the petitioner would submit that the petitioner was not given proper opportunity of hearing for the reason that representations were filed to establish the fact that his date of birth is 07.12.1957, therefore, the said letter dated 15.02.2011 (Annexure-P/1) is erroneous and could not be given effect to. He would further submit that though several representations (Annexure-P/4) were filed in the year 2011, much prior to the retirement, but no cognizance was taken and, as such, the retirement order which affects the right of the petitioner would amounts to passing an order without giving any opportunity of hearing to the petitioner. Therefore, the order of retirement of the petitioner is required to be set aside and consequential benefits accrued to the petitioner should be given.

4. *Per-contra*, learned counsel for the respondents No.2 to 5 would submit that the petitioner stood retired back in the year 2011 and after much delay this instant petition has been filed. There is no plausible explanation given by the petitioner to file the instant petition with enormous delay, as such, at this stage the representation of the petitioner could not be reconsidered. He placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***Karnataka Rural Infrastructure Development Limited vs. T.P. Nataraja*** reported in 2012 SCC Online SC 767 and would submit that the like nature of petitions are required to be dismissed on the ground of delay and latches.



5. I have heard learned counsels for the parties and perused the documents.

6. The date of retirement of the petitioner was 30.09.2011. The notice for date of retirement on 30.09.2011 was given to the petitioner as per Annexure-P/1 by communication dated 15.02.2011, i.e. much prior to the date of retirement. It appears that the petitioner slept over his right, if any, and accepted the retirement and only relied upon the representation which was filed in the year 2011. Almost 10 years have passed by now. The Hon'ble Supreme Court in the case of *T.P. Nataraja (supra)* for change of date of birth has observed that application for change of date of birth can be rejected on the ground of delay and latches and furthermore when it is made at the fage end of service. At Para-10 of the judgment the Hon'ble Supreme Court has laid down the law, which is reproduced hereunder:

“10. Considering the aforesaid decisions of this Court the law on change of date of birth can be summarized as under:

- (i) application for change of date of birth can only be as per the relevant provisions/regulations applicable;
- (ii) even if there is cogent evidence, the same cannot be claimed as a matter of right;
- (iii) application can be rejected on the ground of delay and latches also more particularly when it is made at the fag end of service and/or when the employee is about to retire on attaining the age of superannuation.”

7. Applying the aforesaid principle in the facts of this case, it would reveal that the instant petition to set aside retirement with ancillary benefit has been filed with enormous delay. Furthermore, the representation to change date of birth was filed at the fage end of the



service when the notice of retirement was already given. There is no plausible explanation given in the petition as to why the petition is grossly delayed of 10 years. This Court cannot therefore order a denovo enquiry for change of date of birth in terms of the principle laid down by the Hon'ble Supreme Court after a period of 10 years. The petition, therefore, sans merit and is liable to be dismissed.

8. Accordingly, the petition is dismissed.

Sd/-  
(Goutam Bhaduri)  
Judge

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