

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM
LABOUR COURT, JABALPUR

NO. CGIT/LC/R/23/2016

Present: P.K.Srivastava

H.J.S..(Retd)

**The Joint Mahamantri,
Rashtriya Koyala Khadan Mazdoor Sangh (INTUC),
Shramik Shakti Bhawan, PO: Chandametta,
Distt. Chhindwara (MP) - 480477**

Workman

Versues

**The Chief Manager,
WCL, Kanhan Area, Dungeriya
Chhindwara - 480551**

Management

(JUDGMENT)

(Passed on this 17th day of December - 2025)

As per letter dated 04.02.2016 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per Notification No. L-22012/97/2015-(IR(CM-II)) dt. 04.02.2016. The dispute under reference relates to:

"क्या मुख्य महाप्रबंधक, वैस्टर्न कोलफील्ड्स लिमिटेड, कन्हान क्षेत्र, डुंगरिया पो०, जिला छिंदवाडा (मध्य प्रदेश) द्वारा पूर्व कामगार श्री किशोर कुमार आत्मज श्री झिगरिया, पूर्व टिंबरमेन घोडावागी कॉलरी नं० 1 के एनसीडब्ल्यूए के प्रावधानों तदानुसार जारी कियान्वयन आदेश 76 के अनुसार जन्मतिथि संशोधन हेतु दिए आवेदनों अनुसार जन्मतिथि 23.09.1952 के स्थान पर 12.05.1959 ना करना तथा फार्म बी में दर्ज जन्मतिथि 23.09.1952 के आधार पर पूर्व कामगार श्री किशोर कुमार को दिनांक 31.03.2011 को

सेवानिवृत्त करना कथित है ? यदि नहीं तो कर्मकार क्या अनुतोष पाने का अधिकारी है?"

The facts connected are mainly that, undisputedly the Workman was appointed by Management and he joined as a Tub Loader in Dumua Colliery with the Management of Western Coal Field Limited on 03.05.1985. He was transferred to Ghorawari Colliery on 10.03.1993. According to him, he had produced his documents which were his Registration Card with Employment Exchange mentioning his date of birth at the time of his first joining. His date of birth 12.05.1959 was mentioned in his documents which were recorded by Management at the time of his joining, but it was unilaterally changed from 12.05.1959 to 23.09.1952 by Management while he was working on transfer in Ghorawari Colliery. He made various representations in this respect, which were not heard. Ultimately, he filed a writ petition No. 7953/2007 which was disposed vide order dated 13.05.2009 after hearing. The Management of WCL was directed to consider the representation and supporting documents with respect to his this grievance of the petitioner workman and decide it in the light of binding instructions preferably within a period of three months from the date of filing of the representation.

It is the case of the Workman that he filed a representation in the light of said order which was dismissed by the Management vide communication dated 29.08.2009 (**Copy filed and proved as Exhibit W-7**) without considering and in ignorance of the rules specifically **Implementation Instructions, 76 (I.I. 76)** which is unjust, illegal and arbitrary. The Management superannuated him on the basis of his incorrect date of birth 23.09.1952 which is also unjust, arbitrary and illegal. The Workman has further alleged that he again filed a W.P. No. 15289/2013 against dismissal of his representation seeking correction of his date of birth and his superannuation which was disposed by Hon'ble High Court vide order dated 05.02.2015 with an observation that he may seek remedy with the Competent Labour Court. The Workman has thus prayed that, setting-aside his superannuation on the basis of his incorrect date of birth, he be deemed to be reinstated with all back-wages and pre as well post retrial benefits deeming him to be in continuous service till date of his superannuation on the basis of his date of birth 12.05.1959.

The Management has defended its action with the case that, he declared himself as an illiterate at the time of his first posting and also declared his date of birth 23.09.1952 which was recorded in Form B which he accepted. This date of birth was replicated in his service records. He was issued last pay certificate on his transfer to Ghorawari Colliery mentioning date of birth 23.09.1952. A pension scheme was introduced in the Mines in the year 1988, he mentioned his same date birth in his Pension form PS-I and PS-II. His representation was correctly decided in the compliance of order of Hon'ble High Court as mentioned above.

Both the sides have filed affidavits as his examination in chief and have been cross-examined. Both the sides have also filed and proved documents to be referred to as and when required.

I have heard argument of Learned Counsel Mr. Vinod Napit for Workman and Mr. Neeraj Kewat for Management. Both the sides has filed written submissions also which are part of record. I have gone through the written submissions and the record.

One of the submissions from the side of Management is that, since the dispute has been raised at the fag end of his service, the request should not be considered as it barred by unexplained delay and latches on part of the Workman.

The judgment of Hon'ble Supreme Court in the case of ***Karnataka Rural Infrastructure Development Limited V.s. T.P. Nagrajappa (2021) 12 SCC 27*** has been referred to in this respect.

Since in this case, there is a specific direction of Hon'ble High Court in the said writ petition as referred to above, to consider the representation of the Workman in the light of relevant rules and circulars with respect to correction of his date of birth, the plea of delay and latches is not available to Management. ***The only issue requires to be considered here is whether the action of Management in dismissing the representation of the Workman with respect to change of his date of birth in the light of direction of Hon'ble High Court in the aforesaid Writ as mentioned above is correct in law or fact or not.***

The communication with respect to rejection of workman's representation by Management vide letter dated 29.08.2009 speaks that since the documents submitted by the Workman with his representation were not submitted to the Department at the time when he entered into employment, therefore, these documents filed at the fag end of his service could not be considered as they do not come within the rules of the Company. The relevant portion of this communication is being reproduced as follows:

“ That Form-B is a statutory register prepared under the provisions of Mines Act. That at the time of entering into employment, documents submitted by you with your representation were not submitted to the Department. Therefore, these documents at the fag end of your service cannot be considered as they do not come within the rules of the Company.

That while you have entered in services and accepted your date of birth as 23.09.1952 and put signature as token of its correctness therefore, it is not possible to accept that your date of birth is 12.05.1959.”

As stated above, the ground of delay was not available to the Management for rejection of the claim because it was being considered in compliance of order by Hon'ble High Court in Writ Petition details mentioned above. Hence, the rejection of representation on this ground is nothing but perverse.

The Implementation Instructions - 76 provides a comprehensive procedure for deciding disputes with respect to date of birth of the employees which are being reproduced as follows:

Determination of the age at the time of appointment

i) Matriculates.

In the case of appointees who have passed Matriculation or equivalent examinations, the date of birth recorded in the said certificate shall be treated as correct date of birth and the same will not be altered under any circumstances.

ii) Non-matriculates but educated.

In the case of appointees who have pursued studies in a recognised educational institution, the date of birth recorded in the School Leaving

Certificate, shall be treated as correct date of birth and, the same will not be altered under any circumstances.

The Workman side has filed and proved his educational documents certificate of passing his Purav Madhyamik Pariksha in 1975, his transfer certificate for Class 5th for the year 1971, his class 7th Mark-sheet of 1973, extracts of his service extracts issued to him by the Management on 31.05.1987 (Exhibit W-7**) which establishes his claim that his date of birth is 12.05.1959 which is held proved. The Management documents filed and proved are **firstly**, with respect to the place where he was transferred i.e. Ghorawari Colliery and **secondly**, are replications of his last pay certificate issued on his transfer with respect to entry regarding date of his birth hence, cannot be relied upon.**

In the light of above discussion and findings, the action of Management of WCL in superannuating the Workman Kishore Kumar on the basis of his date of birth 23.09.1952 and not correcting his date of birth from 23.09.1952 to 12.05.1959 is held unjust, arbitrary and illegal. Consequently, the reference is answered as follows.

AWARD

Holding the action of Management of WCL in not correcting the date of birth of workman Kishore Kumar S/o Jhigariya from 23.09.1952 to 12.05.1959 in the light of his representation filed by him in compliance of order of Hon'ble High Court of M.P. in W.P. No. 7953/2007 unjust, illegal and arbitrary, the superannuation of the Workman on the basis of his date of birth 23.09.1952 is set-aside. He is reinstated from the date of his superannuation with all consequential pre and post retrial benefits till date of his superannuation on the basis of his date of birth 12.05.1959 deeming him to be in continuous service of the Management.

No order as to cost.

DATE:- 17/12/2025

**(P.K.SRIVASTAVA)
PRESIDING OFFICER**