

**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,
ASANSOL.**

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 05 OF 2016

PARTIES: Prabir Kumar Mondal
Vs.
Management of Madhabpur Colliery, ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Prabir Mondal (in person).
For the Management of ECL: Mr. P. K. Das, Advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 03.06.2025

A W A R D

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/116/2015-IR(CM-II)** dated 02.02.2016 has been pleased to refer the following dispute between the employer, that is the Management of Madhabpur Colliery, Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal. Thereafter, a Corrigendum of Schedule was received bearing **No. L-22012/116/2015-IR(CM-II)** dated 19/22.08.2016 recasting the address of the management.

THE SCHEDULE

“ Whether the action taken by the management is premature for retirement of Sri Prabir Mondal, Sr. R.T.O. is legal and justified? If not, what relief is entitled to the workman? ”

1. On receiving Order **No. L-22012/116/2015-IR(CM-II)** dated 02.02.2016 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference case was registered on 10.02.2016 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims.

2. The workman filed his written statement on 01.11.2016. Management contested the Industrial Dispute by filing their written statement on 15.05.2017. Brief fact of the case as per written statement of the workman is that the workman

was a permanent employee of Eastern Coalfields Limited (hereinafter referred to as ECL) and a letter of appointment dated 26.08.1977 was issued for his posting at Madhabpur Colliery under Kajora Area of ECL. He was subsequently promoted to the post of Sr. R.T.O. and management allotted CMPF No. 02/123/B/0366, U.M. No. 628239 to him. The management recorded his date of birth in the B-Form Register of the colliery as 1955 and intentionally did not record the date and month of his birth. The actual date of birth of the workman as per his educational qualification is 08.11.1955, which is recorded in his Matriculation Certificate, on the basis of which promotion was given to him as Sr. R.T.O. The workman submitted an application on 24.12.2011 before the Agent of Madhabpur Colliery for correction of his date of birth. The application was forwarded to Senior Manager (Personnel), Kajora Area, who asked for production of relevant document for correction of his date of birth. The workman produced his Higher Secondary Admit Card for rectification of his date of birth. The Admit Card bearing no. DAC/78/NO:1684 dated 17.12.2012, is a duplicate copy of the Admit Card for Higher Secondary examination held on 16.05.1978.

3. It is the further case of the workman that he was unsuccessful in his examination in the year 1976 and he re-appeared in the examination in the year 1978. The Sr. Manager (Personnel), Kajora Area in his letter to the Welfare Officer asked him to verify the Admit Card issued by West Bengal Board of Secondary Education for rectification of the date of birth of the workman. The Age Determination Committee of Kajora Area of ECL examined the details of the workman and recommended for rectification of his date of birth as 08.11.1955 instead of year of birth as "1955". It is claimed by the workman that as per Implementation Instruction No. 76 (hereinafter referred to as I.I. No. 76) the date of birth of a workman recorded in the Matriculation Certificate of the Board of Secondary Education is required to be treated as the date of birth of the workman. The aggrieved workman contended that the management intentionally did not

rectify his date of birth and he has been superannuation from service on 30.06.2015 instead of 30.11.2015 and he suffered loss of wages for five months. The workman claimed for full wages, Quarterly bonus, Ex-gratia, Leave wages, House Rent Allowance, Coal Mine Provident Fund benefits for the period from 01.07.2015 to 31.11.2015.

4. Management refuted the claim of the workman and stated in their written statement that Prabir Kumar Mondal was appointed on 05.09.1977 and in the B-Form Register of Madhabpur Colliery his age / year of birth has been recorded as 1955 against Serial No. 2851 and he authenticated the entry by putting his signature. Prabir Kumar Mondal was transferred to Madhusudanpur Colliery and again transferred back to Madhabpur Colliery. As per entry in Last Pay Certificate of Madhusudanpur Colliery his year of birth has been recorded as 1955. Service Record Excerpt was issued to Prabir Kumar Mondal where his date of birth was recorded as 1955. From all the contemporaneous records it appears that the date of birth of Prabir Kumar Mondal was recorded as 1955 which was well within his knowledge. The management of ECL has contended that as per Joint Bipartite Committee for the Coal Industry, the Service Record Excerpts were issued to all the workman including Prabir Kumar Mondal for the purpose of settling their objection thereto within a stipulated period. Prabir Kumar Mondal neither raised any objection regarding his year of birth nor requested the employer company to incorporate the date and month of birth in the Service Record. The management contended that Prabir Kumar Mondal deliberately suppressed the fact. Referring to paragraph no. 4 of I.I. No. 76 it is clearly mentioned that wherever there is no variation in records, such cases will not be reopened unless there is very glaring and apparently wrong entry brought to the notice of the management. It is urged that as per the said instruction which is binding on all workman and management there cannot be further alteration of date of birth. The workman has also been issued with Identity Card in which his year of birth has been recorded as 1955.

The management asserted that in absence of specific date of birth, whenever year of birth of the employee is mentioned, the practice of the establishment is to take 1st July of the year as date of birth of the workman and in the present case the same principle was applied according to the Model Standing Orders. In the explanatory note to the Clause No. (1) (IV) of the Schedule (I-B) of the Model Standing Orders it is prescribed that where exact date of birth is not available and year of birth is only available, then the 1st July of the said year shall be taken as the date of birth.

5. Management relied upon the decision of the Hon'ble Supreme Court of India in the case of **State of Maharashtra and Another Vs. Gorakhnath Sitaram Kamble and Others [Civil Appeal No. 9704 of 2010]** wherein it was held that : *“ correction at the fag end would be at the cost of large number of employees, therefore, any correction at the fag end must be discouraged by the Court.”* It was further held that : *“ no application for alteration of date of birth after five years should have been entertained.”* It is the case of the management that the workman was appointed in the year 1977 and the dispute relating to date of birth has been raised in the year 2015 i.e., after 38 years. Therefore, the dispute raised after such length of period cannot be considered. Referring to the averment made in Paragraph No. 8 of the written statement of the workman to the effect that the Age Determination Committee of Kajora Area recommended rectification of his date of birth as per I.I. No. 76, it is contended that such statement is incorrect and the proceeding of the committee would reveal that no such recommendation was made for correction of date of birth of Prabir Kumar Mondal. On the other hand, the committee observed that Matriculation Certificate was issued after appointment of the workman. It is urged that the workman has been rightly superannuated from his service w.e.f. 01.07.2015 and the workman is not entitled to any relief for correction of his date of birth or payment on account of alleged loss of wages by 5 months or other consequential reliefs.

6. The workman has filed his affidavit-in-chief where he has reiterated his case in the written statement and claimed that his correct date of birth is 08.11.1955. The workman during his cross-examination has produced the following documents :

- (i) Copy of the Admit Card issued by West Bengal Board of Secondary Education for Higher Secondary Examination of the year 1976 has been produced as Exhibit W-1.
- (ii) Copy of the Admit Card issued by West Bengal Board of Secondary Education for Higher Secondary supplementary examination of the year 1978, as Exhibit W-2.
- (iii) Copy of the Mark Sheet of Supplementary Higher Secondary Examination, as Exhibit W-3.
- (iv) Copy of the Letter dated 01.11.2013 of the Sr. Manager (Personnel), Kajora Area issued to the Welfare Officer (T), Madhabpur Colliery for verification of the Admit Card from West Bengal Board of Secondary Education, as Exhibit W-4.
- (v) Copy of Letter dated 22.07.2014 issued by Dy. Secretary (Records Verification), West Bengal Board of Secondary Education to the Manager, Madhabpur Colliery verifying the date of birth of Prabir Kumar Mondal, as Exhibit W-5.
- (vi) Copy of the Appointment Letter of Prabir Kumar Mondal date 26.08.1977, as Exhibit W-6.
- (vii) Copy of the Identity Card of Prabir Kumar Mondal issued by the management, as Exhibit W-7.
- (viii) Copy of the Application of Prabir Kumar Mondal for correction of date of birth, as Exhibit W-8.

It transpires from his cross-examination that on his transfer from Madhusudanpur to Madhabpur his year of birth was recorded as 1955 in his Last Pay Certificate. In the year 1987 he was posted at Madhusudanpur Colliery and

his year of birth was recorded as 1955 in the Service Record and Service Record Excerpt was supplied to him. The witness admitted that he did not raise any objection regarding year of birth. It is also true that in the Provident Fund and Gratuity Forms his date of birth was recorded as 1955 instead of his complete date of birth. The cross-examination further reveals that he received Admit Card of Higher Secondary Examination in the year 1976 prior to his joining service in the year 1977. The workman denied that the Admit Card of Higher Secondary Examination was issued to him in the year 1978. The workman has been superannuated from service w.e.f. 01.07.2015. The witness claimed that he produced his Admit Card for Higher Secondary Examination at the time of his appointment but did not raise the dispute regarding his date of birth recorded in the Service Record at that time. The workman denied the suggestion that he has been superannuated from his service in legal and proper manner, according to his actual date of birth.

7. Mr. Ramjee Tripathi has been examined as Management Witness No. 1. He filed his affidavit-in-chief. In his evidence-in-chief the witness stated that the year of birth of Prabir Kumar Mondal was recorded as 1955 in the Service Record of the company. Copy of Form 'B' Register of Prabir Kumar Mondal has been exhibited in evidence as Exhibit M-1. Copy of Service Record Excerpt, as Exhibit M-2. Copy of Identity Card of the workman where his date of birth is recorded as 1955, as Exhibit M-3. Copy of Notice of Superannuation where his last date of work was recorded as 30.06.2015, is produced as Exhibit M-4.

8. In course of cross-examination the witness stated that in all three documents the year of birth of Prabir Kumar Mondal has been recorded as 1955 on the basis of information furnished by him and the same was signed by him. The witness denied that at the time of joining employment under the company on 05.09.1977 Prabir Kumar Mondal had passed Higher Secondary Examination or

he produced copy of Admit Card bearing his date of birth as 08.11.1955. The witness admitted that on 24.12.2011 Prabir Kumar Mondal submitted an application for correction of his date of birth and the application is marked as Exhibit W-8. The proposal for correction of his date of birth was sent to Headquarters for taking action but ECL Headquarters regretted the claim and issued a letter dated 13.03.2015. Copy of the Letter dated 13.03.2015 has been exhibited as Exhibit M-5.

9. Prabir Kumar Mondal, argued his case seeking correction of his date of birth in the Service Record and submitted that the management of ECL was fully aware about his educational qualification and did not rectify his date of birth as 08.11.1955, in place of the year of birth recorded as 1955 in the important Service Record Excerpt, Form 'B' Register as well as Identity Card. Prabir Kumar Mondal admitted that he did not raise any objection against the incomplete date of birth recorded in the Service Record Excerpt after a copy of the same was served in the year 1987. He submitted that on 28.12.2011, 4 years prior to his superannuation he applied before the Agent of Madhabpur Colliery for correction of his date of birth (Exhibit W-8). The workman also produced copy of his Admit Card issued by the West Bengal Board of Secondary Education for his Higher Secondary Examination of the year 1978. The Admit Card appears to have been issued on 17.12.2012, which is marked as Exhibit W-2. Both the admit cards appeared to be duplicate and bear date of birth of Prabir Kumar Mondal as 8th November 1955. The workman argued that the management did not consider his representation and did not correct his date of birth in the Service Record due to which he suffered premature superannuation five months earlier than his actual date of superannuation on 30.11.2015. The workman claimed payment of wages for five months along with Quarterly bonus, Coal Mine Provident Fund benefits and other consequential reliefs.

10. Mr. P. K. Das, learned advocate for management of ECL, refuting the claim of the workman argued that at the time of appointment the workman did not furnish his actual date of birth and his year of birth was recorded as 1955 in all relevant documents in Form 'B' Register, Identity Card and Service Record of the company. At the time of his application the workman did not pass his Higher Secondary Examination. In the pleading as well as evidence the workman has admitted that he passed the Higher Secondary Examination in the year 1978 and for the purpose of correcting date of birth he produced duplicate admit cards of West Bengal Board of Secondary Education which are dated 13.02.2013 (Exhibit W-1) and 17.12.2012 (Exhibit W-2). Both these documents were collected long after the entries were made in the Service Records. Learned advocate argued that no objection was raised by the workman after Service Record Excerpt was supplied to him in the year 1987. It is contended that at the fag end of his service, at the time of superannuation he submitted an application for rectification of his date of birth but the management after considering the facts rejected his application vide letter No. KA/APM(IC)/C-6/DOB/27/2389 dated 13.03.2015 (Exhibit M-5). Learned advocate urged that the workman is not entitled to any relief and his prayer for payment of wages for five months on account of loss of wages due to premature superannuation and other consequential reliefs is liable to be dismissed.

11. I have considered the arguments advanced by the aggrieved workman and learned advocate for the management in light of the facts and circumstances of the case and evidence adduced. Undisputedly, the date of birth of the workman was recorded in the Service record, Form 'B' Register and Identity Card as 1955 instead of his complete date of birth. The workman received Service Record Excerpt in the year 1987 but did not raise any objection against the date of birth appearing as 1955. After passage of 34 years from his appointment in the year 1977 he submitted an application before the management of the company on

24.12.2011 for correction of his date of birth, stating therein that his date of birth is 18.11.1955 but it has been wrongly recorded as 01.07.1955. On a perusal of Exhibit W-1 and W-2, which are duplicate copies of Admit Cards of Prabir Kumar Mondal issued by West Bengal Board of Secondary Education, it appears that his date of birth was recorded as 08.11.1955. The management of ECL had considered the proposal of correction of date of birth in respect of Prabir Kumar Mondal and communicated to him that Competent Authority is not agreed for correction of date of birth. Copy of the letter is produced as Exhibit M-5. From the evidence on record, it appears that the workman has already superannuated from service w.e.f. 01.07.2015 and he raised this Industrial Dispute after his superannuation in the year 2016. It is well settled law that the date of birth should be rectified at the earliest point of time and the workman should not be permitted to seek relief of his age at the fag end of his service. In the case **Guddappa Ningappa Kolaji Vs. The Management of Grasim Industries [W.P. No. 146666 of 2020]**, the Hon'ble High Court of Karnataka in the writ petition relying upon a decision of the Hon'ble Supreme Court of India in the case of **Bharat Coking Coal Limited and Others Vs. Shyam Kishore Singh [AIR (2020) SC 940]**, held that the employee cannot be permitted to seek change of date of birth, appearing in the Service Register after his retirement. In the instant case the workman has raised the dispute after his superannuation, seeking rectification of his date of birth which is not justified and is not permissible. The workman had full knowledge that his year of birth was recorded in the Service Record, Form 'B' Register and Identity Card of the company which he was carrying with him. In 34 years of his service, he made no attempt seeking rectification of his date of birth. The workman therefore is disentitled to any relief for rectification of his date of birth in the service record after superannuation. In view of my above discussion, I hold that there is no merit in the claim of the workman at this belated stage and the Industrial Dispute is liable to be dismissed.

Hence,

ORDERED

that the Industrial Dispute is dismissed on contest. Let an award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

Sd/-

(ANANDA KUMAR MUKHERJEE)

Presiding Officer,
C.G.I.T.-cum-L.C., Asansol.