



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 23RD DAY OF JULY, 2024

BEFORE

THE HON'BLE MR JUSTICE M.G.S. KAMAL

WRIT PETITION NO.146666 OF 2020(L-RES)

BETWEEN:

GUDDAPPA NINGAPPA KOLAJI,
AGE: 67 YEARS, OCC: NIL,
R/O: MAKANUR, TQ: RANEBENNUR,
DIST: HAVERI.

... PETITIONER

(BY SRI SANTOSH S. HATTIKATGAI, ADVOCATE)

AND:

THE MANAGEMENT OF GRASIM INDUSTRIES,
REPRESENTED BY SENIOR EXECUTIVE PRESIDENT,
HARIHAR POLIC-FIBRES KUMARAPATNAM,
HARIHAR, DIST: DAVANAGERE - 577 001.

...RESPONDENT

(BY SRI GANGADHAR S. HOSAKERI, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE, A WRIT, ORDER OR DIRECTION IN THE NATURE OF CERTIORARI BY SETTING ASIDE THE AWARD DATED 28.11.2011 PASSED IN REF. NO.21/2010 BY THE COURT OF THE PRESIDING OFFICER, LABOUR COURT, HUBBALLI, AT HUBBALLI, VIDE ANNEXURE-G AND ETC.,



THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING - B GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. Petitioner is before this Court being aggrieved by the order dated 28.11.2011 passed in Reference No.21/2010 by the Presiding Officer Labour Court, Hubballi. By which, the application filed by the petitioner under Section 10(1)(c) of the Industrial Disputes Act, 1947, (for short, 'the ID Act'), has been rejected.

2. Case of the petitioner is that; he was appointed as Pulp Drawing Processor on 01.10.1983 and retired from service on 09.03.2006. That at the time of his appointment he had orally furnished his date of birth as 30.03.1952, and he believed the said date having been recorded in the service register. But he had not produced any document at the time of his appointment regarding his date of birth. As per the date of the birth, the petitioner was to retire from the service on 30.03.2010. However, petitioner was made to retire from the service on



09.03.2006. The petitioner after the retirement applied and obtained his birth certificate from the Deputy Tahasildar, Medleri, Taluk Ranebennur and as per the birth certificate so issued, his date of birth is 30.03.1952. Accordingly, petitioner gave a representation to consider his date of birth as 30.03.1952, and to permit him to continue in the service or to provide all the benefits till the date of his retirement as 30.03.2010.

3. Statement of objections to the said claim petition was filed by the respondent-management admitting the petitioner having been appointed on 01.10.1983. It is contended that at the time of joining the service the petitioner has declared his date of birth as 10.03.1948 and the same was entered in the office records. Petitioner was covered under the provisions of Employee's Provident Fund and Miscellaneous Provisions Act, 1952. The petitioner had even submitted Form No.2 to the authorities furnishing details of his family members and had declared his date of birth as 10.03.1948. It is further contended that the petitioner had even submitted



certificate issued by the Higher Primary Boys School, Rajanahalli village, Harihar Taluk, wherein his date of birth was mentioned as 10.04.1948. That as per the Clause 29 of the Standing Orders of the respondent-management the workman shall retire from the service on attaining the age of 58 years and if there is any differences/disputes, the entries in the Provident Fund Declaration would be conclusive. It is contended that accordingly the petitioner retired on he attaining the age of 58 years on 09.03.2006 and he has been paid all his dues in full and final settlement by way of a cheque dated 20.03.2006 drawn at State Bank of Mysore, and the same has been accepted by the petitioner without any dispute or objection. However, in the year 2008 he approached the Deputy Labour Commissioner falsely claiming his date of birth to be 30.03.1952. Hence, sought for rejection of the claim petition.

4. Evidence was recorded. The Labour Court on appreciation of the evidence and documents declined to accept the case of the petitioner and accordingly rejected



the same. Aggrieved by the same, the petitioner is before this Court.

5. Learned counsel for the petitioner submits that the petitioner had not submitted any documents regarding his date of birth at the time of joining the service. He submits that only after his retirement he applied and obtained the documents pertaining to the date of birth and found his date of birth is to be 30.03.1952 instead of 10.03.1948. He submits that since the petitioner was not aware of his actual date of birth which he learnt only after his retirement, he was entitled for consideration of the same for the purpose of service benefits.

6. *Per contra*, learned counsel for the respondent-management submits that as per Clause 29 of the Standing Orders, the particulars of the date of birth furnished in the records pertains to Provident Fund Declaration are treated as conclusive evidence. He further submits that the petitioner had never raised any issue with regard to his date of birth during his service and even after two years of his retirement. He also submits that the



petitioner having received the all service benefits on the day of his retirement, and has invented a false case to claim undue advantage.

7. Learned counsel for the respondent-management relies upon the judgment of the Hon;ble Apex Court in the case of ***Bharat Coking Coal Limited and Others Vs. Shyam Kishore Singh*** reported in ***AIR (2020) SC 940*** and ***AIR (2020) 3 SCC 411***. Referring to the said judgment, learned counsel for the respondent-management submits that the petitioner is not entitled for the relief as sought for.

8. Heard. Perused the record.

9. As seen above, even as admitted by the petitioner, he was not aware of the date of birth and he apparently learnt about his date of birth only after two years of his retirement, however, he continued to render his service and avail the benefit thereof on the basis of he having been appointed considering his date of birth as 10.03.1948.



10. The Hon'ble Apex Court in the case of ***Bharat Coking Coal Limited and Others*** (supra), wherein an attempt that was made by respondent therein seeking change of date of birth after lapse of three decades from the date of employment, without availing opportunity of rectifying the date of birth in the first instance, and respondent therein himself in the Provident Fund Nomination Form having indicated the date of birth which corresponds to the date of birth entered into the service register, has been held, cannot be permitted to seek change of date of birth after his retirement.

11. The present case which is also similarly situated, the order passed by the Labour Court cannot be found fault with. No grounds are made out. Accordingly, petition is dismissed.

**SD/-
JUDGE**