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MP-480-2019

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE ALOK AWASTHI

MISC. PETITION No. 480 of 2019*PUBLIC WORKS DEPARTMENT AND OTHERS**Versus**PANNA*

Appearance:

Shri Mukesh Parwal, Government Advocate for the petitioner/State.

None for the respondent, though served.

Heard on : 24.09.2025

Pronounced on : 07.10.2025

ORDER

This petition is filed under Article 227 of the Constitution of India with the prayer to set aside the order dated 16.08.2018 (Annexure-P/3) passed by the Labour Court, Ujjain in Case No.Appeal/263/2016/ID Act), whereby the Labour Court had directed to continue the service of the respondent as per his date of birth i.e. 03.06.1959 instead of 01.10.1954 and entire salary be granted to the respondent within one month.

2. Facts in brief are that respondent was appointed as a Gangman on 01.03.1978 in the office of the petitioner department. The date of birth of the respondent is recorded in the service book as 01.10.1954 whereas, his correct date of birth is 03.06.1959. which can be seen from the school certificate of Primary School, Pancharuandi (Ex.P/7) as well as transfer certificate (Ex.D/4). The petitioner passed the retirement order dated 30.08.2016 stating that as per date of birth recorded in the service book, the respondent will be superannuating on 30.10.2016. The respondent moved an application under Section 33(c)(2) of the



Industrial Dispute Act, 1947 before the Labour Court, Ujjain praying for grant of Rs.1,19,200/- for his services and he be continued in service.

3. The said application was objected by the petitioner by filing a reply wherein it has been averred that as per Column-1 of Rule 84-85 of the M. P. Financial Code, once the date of birth in the service book has been mentioned, the same could not be changed except if there is a typographical error therefore, the impugned order is bad in law.

4. Learned Labour Court after taking into consideration the averments of the parties, framed three issues for adjudication and vide impugned order, allowed the application of the respondent by directing the petitioner to continue him in service till he attends superannuation as per his date of birth i.e. 03.06.1959 instead of 01.10.1954 and entire salary to be granted to him within one month. Being aggrieved by the impugned order, present petition has been preferred.

5. Learned counsel for the petitioner has placed reliance in the case of **Chintaram Vs. State of M.P. & Others [W.P. No.17469/2013 decided on 23.03.2017]**, wherein it has been held that after retirement, the respondent cannot be permitted to turn around and claim a different date of retirement. It is submitted that at the fag end of carrier, the respondent cannot be permitted to seek alteration in the date of birth. The Labour Court has failed to consider Column-1 of Rule 84-85 of the M. P. Financial Code whereby employee's date of birth could not be changed in service book by excepting only typographical error.

6. Heard counsel for the petitioner at length and perused the record.

7. This petition is filed by the petitioner on 16.01.2019 i.e., after the date of his retirement. Thus, it is clear that petitioner is seeking alternation of date of birth after his retirement. The respondent with open eyes signed various service documents which contains his date of birth as 01.10.1954. After retirement, the



respondent cannot be permitted to turn around and claim a different date of retirement. The documents submitted by the petitioner are obtained in order to claim a different date of birth as an after thought. So far the judgement of **Chhota Birsa Uranw (Supra)** is concerned, the said judgment is based on the interpretation of Implementation Instruction No.76 which was applicable to the employees of Coal India Pvt. Ltd. and its subsidiaries. The said judgement cannot be pressed into service in the facts and circumstances of the present case.

8. In the upshot of the aforesaid discussions, in the considered opinion of this Court, the impugned order passed by the Labour Court directing the petitioner to continue the respondent in service as per his date of birth, is not found in accordance with law. Accordingly, having allowed this miscellaneous petition, the impugned order passed by the Court is set aside.

9. Resultantly, present petition stands allowed and disposed of.

(ALOK AWASTHI)
JUDGE