

IN THE HIGH COURT OF JHARKHAND AT RANCHI

L.P.A. No. 81 of 2025

Uma Ram Appellant

Versus

1. M/s Bharat Coking Coal Limited, through its Chairman-cum-Managing Director, Dhanbad
 2. The Director Personnel (Head Quarter), M/s Bharat Coking Coal Limited, Dhanbad
 3. The General Manager (P & IR), Headquarter, M/s Bharat Coking Coal Limited, Dhanbad
 4. The General Manager, Kusunda Area, Area-VI, M/s Bharat Coking Coal Limited, Dhanbad
 5. The Project Officer, East Bassuria Colliery, M/s Bharat Coking Coal Limited, Dhanbad
- Respondents

With

L.P.A. No. 523 of 2024

Shiv Kumar Paswan Appellant

Versus

1. M/s Bharat Coking Coal Limited, through its Chairman-cum-Managing Director, Dhanbad
 2. The Director Personnel (Head Quarter), M/s Bharat Coking Coal Limited, Dhanbad
 3. The General Manager (P & IR), Headquarter, M/s Bharat Coking Coal Limited, Dhanbad
 4. The General Manager, P.B. Area, Area-VII, M/s Bharat Coking Coal Limited, Dhanbad
 5. The Chief Personnel Manager, P.B. area, Area-VII, M/s Bharat Coking Coal Limited, Dhanbad
 6. The Deputy Manager (Personnel), Putki Colliery, M/s Bharat Coking Coal Limited, Dhanbad
 7. The Project Officer, Putki Colliery, M/s Bharat Coking Coal Limited, Dhanbad
- Respondents

PRESENT

**HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR**

For the Appellants:	Mr. P. K. Mukhopadhyay, Advocate [In L.P.A. No. 81/2025] Mr. Kalyan Banerjee, Advocate [In L.P.A. No. 523/2024]
For the Respondents:	Mr. A. K. Mehta, Advocate Mr. Amit Kr. Sinha, Advocate [In both the cases]

Reserved on 13.08.2025**Pronounced on 22.08.2025****Per RAJESH SHANKAR, J:****I.A. No. 679/2025 (L.P.A. No. 81/2025)**

Having heard learned counsel for the parties and for the reasons stated in the application duly supported by the affidavit of the appellant/applicant, we find that sufficient cause has been explained which prevented the appellant from filing the appeal within the prescribed period of limitation. Accordingly, the delay of 95 days in filing of the appeal is condoned.

2. The present interlocutory application stands disposed of.

3. **L.P.A No. 81 of 2025** has been preferred against the order dated 09.09.2024 passed by this Court in W. P. (S) No. 644 of 2018 whereby the writ petition filed by the petitioner/appellant (hereinafter referred to as 'the A1') seeking correction of his date of birth in the service record as '05.10.1965' instead of '07.05.1962' on the basis of the date of birth recorded in his Matriculation Certificate, has been dismissed.

4. **L.P.A No. 523 of 2024** has been preferred against the order dated 11.06.2024 passed by this Court in W.P.(S) No. 2365 of 2021 whereby the prayer of the petitioner/appellant (hereinafter referred to as 'the A2') for quashing the letter dated 14/15.10.2020 issued by the General Manager (P&IR), M/s Bharat Coking Coal Limited, Dhanbad rejecting the claim of the A2 for correction of his date of birth in the service record as '07.06.1966' instead of '27.06.1964' on the basis of his Matriculation Certificate, has been dismissed.

Facts of L.P.A No. 81 of 2025

5. According to the A1, he was duly appointed by the respondent authorities on 02.12.1986 and at the time of appointment, he had submitted his Matriculation Certificate issued in the year 1982 from Khalsa High School, Dhanbad wherein his date of birth was mentioned as 05.10.1965. At the time of preparing the service excerpt of the A1, his date of birth was not mentioned in

the column of date of birth, as he was appointed on the post of Temporary Underground Loader. The date of birth of the A1 was mentioned in Form-B as 24 years as on 07.05.1986 as per his medical report and as such he filed a representation dated 20.03.2007 for correction of his date of birth in the service record as was recorded in his Matriculation Certificate. The said certificate of the A1 was also verified from the concerned school i.e. Khalsa High School, Dhanbad and the same was found genuine. The Principal of that school also confirmed that in the school record, the date of birth of the A1 was recorded as 05.10.1965. The Manager, East Basuria Colliery, M/s B.C.C.L called for an explanation from the A1 vide letter dated 08/11.11.2014 which was replied by him on 25.11.2014 stating that he had declared his date of birth as 05.10.1965 at the time of his appointment in the year 1986 by submitting Matriculation Certificate which was issued in the year 1982 and thereby requested to correct his date of birth as per his Matriculation Certificate. However, the respondent authorities failed to rectify the date of birth of the A1 as per his Matriculation Certificate and he was made to retire on 31.05.2022 on the basis of his date of birth recorded in Form-B. Thereafter, the A1 filed the writ petition being W.P.(S) No. 644 of 2018 seeking direction upon the respondent authorities to correct his date of birth in the service record as 05.10.1965 which was recorded in his Matriculation Certificate, however, the said writ petition was dismissed vide the impugned order dated 09.09.2024.

Facts of L.P.A No. 523 of 2024

6. The factual contention of the A2 is that he had joined the service of the respondents on 13.07.1990 on the post of Miner Loader and at the time of entering in the service, he had furnished his Matriculation Certificate before the respondent authorities wherein his date of birth was recorded as 07.06.1966. After joining the service, the A2 was asked to fill up the particulars relating to the service record wherein the columns of nominee and family particulars were

filled up by him in 'Hindi' and the same was submitted to the respondent authorities after putting his signature. However, in the front page, the details of the A2 were subsequently written in 'English' by some other person and his date of birth was wrongly mentioned as 26 years as on 27.6.1990. As soon as the A2 came to know that a wrong date of birth was recorded in his service record, he filed repeated representations before the concerned respondents for correction of his date of birth in the service record as '27.06.1966' instead of '07.06.1964' on the basis of the date of birth recorded in his Matriculation Certificate. However, the matter was kept pending and ultimately the General Manager (P & IR), M/s Bharat Coking Coal Limited, Dhanbad rejected the claim of the A2 vide Letter No. B.C.C.L/KA/AO.SO/JA.TI/KA.AA/2020/5199 dated 14/15.10.2020. Aggrieved thereby, the A2 filed the writ petition being W.P.(S) No. 2365 of 2021, however, the same was dismissed vide the impugned order dated 11.06.2024.

Argument of learned counsel for the A1

7. Learned counsel for the A1 submits that the authorities of M/s Bharat Coking Coal Limited had taken decision to deploy the Miner Loaders having Matriculation Certificate to the post of General Mazdoor (Category-I) from their existing post of Miner Loader. By reasons of the said deployment order, they had literally accepted the educational qualification of the appellant as recorded in his Matriculation Certificate by posting him as 'General Mazdoor' from 'Miner Loader'.

8. It is further submitted that in case of difference in the date of birth recorded in Form-B, Mining Sardar Certificate and School Leaving Certificate of the colliery employee, the age recorded in the School Leaving Certificate has to be accepted to be valid as per the mandatory provision of Implementation Instruction No. 76 of NCWA-III and the proposition laid down by the Hon'ble

Supreme Court in the case of **M/s Bharat Coking Coal Limited & Ors. Vs. Chhota Birsa Uranw**, reported in **2014 (12) SCC 570**.

9. It is further submitted that as per Clause 37 of the Certified Standing Order, the respondents were duty bound to ask the A1 about his educational certificates before making entry of his date of birth in the service record, however, they failed to comply the said condition.

10. It is also contended that the respondents are at fault in not recording the correct date of birth of the A1 in the service record as a result of which, he was wrongly made to retire 3 years before attending 60 years of age and thus the respondents are duty bound to pay the salary as well as the other consequential benefits to the A1 from the year 2022 to 2025 with statutory interest and the cost of litigation.

Argument of learned counsel for the A2

11. Learned counsel for the A2 submits that Clause (B) of Implementation Instruction No. 76 of NCWA-III provides for review determination of date of birth in respect of existing employee wherein under the sub-clause (i)(a), it has been provided that in case of the existing employee, Matriculation Certificate or Higher Secondary Certificate issued by the recognized Universities and Board or Middle Class Certificate issued by the Board of Education and/or Department of Public Instruction and admit cards issued by the aforesaid Bodies, should be treated as correct, provided those were issued by the Universities/Boards/Institutions prior to the date of employment.

12. It is further contended that the General Manager (P&IR) (Head Quarter), M/s B.C.C.L, Dhanbad has nowhere stated in the rejection letter dated 14/15.10.2020 that the A2 had written his date of birth in his own hand writing and thereafter he had put his signature.

Argument of learned counsel for the respondents:

13. Per-contra, learned counsel for the respondents submits that the appellants had not furnished their respective Matriculation Certificates at the time of entering in the service and as such their dates of birth were determined by the Medical Board and the same were written in their respective service records.

14. It is further submitted that the appellants had participated in the age assessment process before the Medical Board without raising any claim that they were having Matriculation Certificates. In fact, they raised objection to the dates of birth recorded in their service records at the fag end of service and hence the said objection was not accepted by the respondents. Thus, there is no infirmity in the impugned orders dated 09.09.2024 & 11.06.2024 and the same need no interference of this Court.

15. Learned counsel for the respondents puts reliance on the following judgements:-

(i) **G.M. Bharat Coking Coal Ltd. West Bengal Vs. Shib Kumar Dushad & Ors.** reported in **(2000) 8 SCC 696**

(ii) **Bharat Coking Coal Limited & Ors. Vs. Shyam Kishore Singh** reported in **(2020) 3 SCC 411**

16. Heard learned counsel for the parties and perused the relevant materials available on record.

17. Both the appellants have claimed that they had passed the Matriculation Examination prior to entering in the service under the respondent-BCCL and they had also produced their respective Matriculation Certificates before the respondent authorities at the time of their joining, however, the respondent authorities had mentioned the incorrect date of birth in their service records. It is further claimed that as soon as they came to know about the said error, they

immediately requested the respondent authorities to correct their dates of birth, however, the same fell on their deaf ears.

18. Learned counsel for the appellants have put much reliance on Implementation Instruction No. 76 of NCWA-III and have contended that the Matriculation Certificates issued by the recognized Universities or Board should be treated as correct, provided the same have been issued prior to the date of employment.

19. We have perused Implementation Instruction No. 76 of NCWA-III. Clause (A) of the said Instruction provides four criteria for determination of the age of the appointees.

(i) The age of Matriculate appointees is to be determined on the basis of the date of birth recorded in the Matriculation Certificate.

(ii) In case, the appointees are non-Matriculate, but educated, their age is to be determined on the basis of the date of birth recorded in the School Leaving Certificate.

(iii) The age of non-Matriculate ex-servicemen is to be determined on the basis of the date of birth recorded in the Army Discharge Certificates, whereas the date of birth of Matriculate ex-servicemen is to be determined on the basis of their Matriculation Certificates.

(iv) The age of illiterate appointees is to be determined by the Colliery Medical Officer keeping in view any documentary and other relevant evidence produced by the concerned appointees and the said date of birth has to be treated as correct date of birth which cannot be altered under any circumstance.

20. In the statutory Form-B of the A1, his age was written as 24 years as on 07.05.1986 and in the said form, the A1 also put his signature. He did not raise any objection against the said entry of date of birth within a reasonable period after preparation of Form-B. For the first time in the year 2007 i.e. after 21

years of service, the A1 raised objection against the said entry of date of birth claiming that he had passed the Matriculation Examination before entering in the service of the respondents.

21. So far as the A2 is concerned, in his service records i.e. SRE, PS-3 and PS-4, Form-B and ID Card register, his age was recorded as 26 years as on 27.06.1090 and he did not raise any dispute about such entries for more than 23 years and for the first time on 25.11.2013, he claimed for correction of his date of birth on the basis of the Matriculation Certificate which was claimed to have been issued prior to entering in the service.

22. The claim of the appellants is that they had submitted their Matriculation Certificates at the time of joining the service under the respondent-BCCL whereas the respondents have contended that the appellants had not submitted their Matriculation Certificates in proof of their date of birth and as such their ages were determined by the Medical Board and the same were recorded in their service records. Thus, both the parties have raised the disputed question of fact.

23. It is a trite law that the High Court should not intervene in the disputed question of fact under Article 226 of the Constitution of India and as such learned Single Judge has rightly dismissed the writ petitions preferred by the appellants. Moreover, since the appellants had requested for correction of their dates of birth after a huge delay of more than two decades, this Court is of the view that the burden was upon them to prove that they had submitted their respective Matriculation Certificates before the respondent authorities at the time of entering into service and a wrong date of birth was recorded in their service records only due to the fault of the respondents. They have however failed to discharge the said burden by bringing on record sufficient documents in support of their claims.

24. Moreover, the appellants had appeared before the Medical Board for determination of their dates of birth and they had also put their signatures on their service records without any objection. These facts sufficiently suggest that the appellants were knowing as to what dates of birth were recorded in their service records, however, they waited for more than two decades in raising objection to the said entries.

25. We have perused the judgment rendered by the Hon'ble Supreme Court in the case of **Shyam Kishore Singh** (Supra.) as has been heavily relied by learned counsel for the respondents wherein it has been held as under:

"10. This Court in fact has also held that even if there is good evidence to establish that the recorded date of birth is erroneous, the correction cannot be claimed as a matter of right. In that regard, in [*State of M.P. v. Premlal Shrivastava*, (2011) 9 SCC 664] it is held as hereunder : (SCC pp. 667 & 669, paras 8 & 12)

"8. It needs to be emphasised that in matters involving correction of date of birth of a government servant, particularly on the eve of his superannuation or at the fag end of his career, the court or the tribunal has to be circumspect, cautious and careful while issuing direction for correction of date of birth, recorded in the service book at the time of entry into any government service. Unless the court or the tribunal is fully satisfied on the basis of the irrefutable proof relating to his date of birth and that such a claim is made in accordance with the procedure prescribed or as per the consistent procedure adopted by the department concerned, as the case may be, and a real injustice has been caused to the person concerned, the court or the tribunal should be loath to issue a direction for correction of the service book. Time and again this Court has expressed the view that if a government servant makes a request for correction of the recorded date of birth after lapse of a long time of his induction into the service, particularly beyond the time fixed by his employer, he cannot claim, as a matter of right, the correction of his date of birth, even if he has good evidence to establish that the recorded date of birth is clearly erroneous. No court or the tribunal can come to the aid of those who sleep over their rights [*Union of India v. Harnam Singh*, (1993) 2 SCC 162.

12. Be that as it may, in our opinion, the delay of over two decades in applying for the correction of date of birth is ex facie fatal to the case of the respondent, notwithstanding the fact that there was no specific rule or order, framed or made, prescribing the period within which such application could be filed. It is trite that even in such a situation such an application should be filed which can be held to be reasonable. The application filed by the respondent 25 years after his induction into service, by no standards, can be held to be reasonable, more so when not a feeble attempt was made to explain the said delay. There is also no substance in the plea of the respondent that since Rule 84 of the M.P. Financial Code does not prescribe the time-limit within which an application is to be filed, the appellants were duty-bound to correct the clerical error in recording of his date of birth in the service book."

26. Thus, the correction of date of birth cannot be claimed as a matter of right, even if there is good evidence to establish that the recorded date of birth is erroneous. A Court or Tribunal cannot come to the aid of those who sleep over their rights. If the delay in applying for correction of date of birth is of more than two decades, then the same is regarded fatal to the case of the concerned employee notwithstanding the fact that there was no specific rule or order, framed or made, prescribing the period within which such application could be filed. Even in such a situation, an application for correction should be filed within a reasonable time.

27. In the case of **Shyam Kishore Singh** (Supra.), Their Lordships also considered the judgment rendered in the case of **Chhota Birsa Uranw** (Supra.) and distinguished the same from the facts of **Shyam Kishore Singh** (Supra.) by observing as under:-

"12. The learned counsel for the respondent, on the other hand, has relied upon the decision of this Court relating the very same employer, namely, the appellants herein in [*Bharat Coking Coal Ltd. v. Chhota Birsa Uranw*, (2014) 12 SCC 570] wherein this Court with reference to the earlier decisions of this Court has upheld the order [*Bharat Coking Coal Ltd. v. Chhota Birsa Uranw*, 2010 SCC

OnLineJhar 1228] of the High Court wherein a direction had been issued to effect the change in the date of birth. Having perused the same we are of the opinion that the said decision cannot render assistance to the respondent herein. This is for the reason that in the said case it was taken note that in 1987 on implementation of the National Coal Wage Agreement III was put into operation for stabilising the service records of the employees and all its employees were provided a chance to identify and rectify the discrepancies in the service records by providing them a nomination form containing details of their service records. In the cited case the respondent (employee) therein had noticed the inconsistencies in the records regarding his date of birth, date of appointment, father's name and permanent address and availed the opportunity to seek correction. Though he had sought for the correction of the errors, the other discrepancies were set right but the date of birth and the date of appointment had however remained unchanged and it is in that view the employee had again raised a dispute regarding the same and the judicial remedy was sought wherein the benefit was extended to him."

28. In the present cases also, the appellants have relied on the judgment rendered in the case of **Chhota Birsa Uranw** (Supra.) and the same is also distinguishable from the facts of the present appeals as the appellants did not seek correction of their dates of birth immediately after implementation of NCWA-III, rather they made unreasonable delay in raising claim for correction of their dates of birth in the service records without giving any cogent explanation for such delay.

29. We have also perused the judgment rendered by the Hon'ble Supreme Court in the case of **Shib Kumar Dushad** (Supra.) wherein their Lordships have held that in a case where the controversy over the date of birth of an employee has been raised long after joining the service and the matter has been determined by following the procedure prescribed under the service rules or general instructions issued by the employer and it is not the case of the employee that there has been any arithmetical mistake or typographical error patent on the face of the record, the High Court in exercise of its extraordinary

jurisdiction under Article 226 of the Constitution of India should not interfere with the decision of the employer.

30. In the present cases also, the dates of birth of the appellants were determined after following the procedure for determination/verification of age of the employees as prescribed under Implementation Instruction No. 76 of NCWA-III and prima facie no manipulation was found in the entries of the dates of birth of the appellants made in their service records. Hence, learned Single Judges has rightly not interfered with the decision of the respondents in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India.

31. For the reasons as aforesaid, we do not find any infirmity in the impugned order dated 11.06.2024 passed in W.P.(S) No. 2365 of 2021 as well as the order dated 09.09.2024 passed in W.P.(S) No. 644 of 2018 so as to warrant any interference of this Court.

32. The present appeals being devoid of merit are, accordingly, dismissed.

(TARLOK SINGH CHAUHAN, C.J)

Satish/A.F.R

(RAJESH SHANKAR, J)