

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7254 of 2003

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Quamrol Hodda Khan son of Late Md.Mortaja Khan, resident of village and
P.O Olahanpur, P.S.Marhaura, District Saran at Chapra

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna
3. The Inspector General of Police, Bihar, Patna
4. The Superintendent of Police, Darbhanga, District Darbhanga

.... Respondent/s

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with

Miscellaneous Jurisdiction Case No.1649 of 2003

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Suo Motu Contempt against DIG of Police (Personnel), Office of DGP,
Bihar

.... Petitioner/s

Versus

.... Respondent/s

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Appearance :

(In CWJC No.7254 of 2003)

For the Petitioner/s : Mr. V.K.Singh, Advocate
Mr. Md.Shakir Ahmad, Advocate

For the Respondent/s : Mr. Ravi Bhardwaj, AC to GA 5

(In MJC No.1649 of 2003)

For the Petitioner/s : Mr. Mr. V.K.Singh, Advocate
Mr. Md.Shakir Ahmad, Advocate

For the Opp.Party : Mr.Ravi Bhardwaj, AC to GA 5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

13 05-01-2015

Heard the parties.

2. Indisputably, the petitioner superannuated from service from the post of Sub-Inspector of Police on 30.06.2003. The petitioner has filed the present writ petition seeking a direction to the respondents to allow him to remain in service till 31st December, 2003 after making correction in the date of birth recorded in his service book.

3. In fact, this is the third round of litigation at the behest of the petitioner for same set of relief. There is no dispute



that the petitioner was appointed on 01.03.1967 on the post of constable. In the service book of the petitioner, his date of birth has been recorded as 1945 only. Neither actual date of birth nor the month has been indicated in his service book. Subsequently, the petitioner was granted promotion and ultimately, he reached up to the post of Sub-Inspector of Police.

4. It is the case of the petitioner that in his Matriculation certificate, his date of birth has been recorded as 10.07.1946 but at the time of entry in service, Matriculation certificate was not produced. Therefore, in the service book, his date of birth was recorded as 1945 only.

5. It is an admitted case of the parties that after remaining in service for quite a long time, at the fag end of the service career, the petitioner filed CWJC No. 1261 of 2002 before this Court for correction of his date of birth but that writ petition was dismissed as withdrawn by a Bench of this Court by order dated 23.01.2002. Thereafter, the petitioner again moved this Court in CWJC No. 2642 of 2003 seeking correction of his date of birth as per his Matriculation certificate as 10.07.1946. The aforesaid CWJC No. 2642 of 2003 was heard by a Bench of this Court and finally it was dismissed by order dated 30.06.2003 (Annexure-10).

6. Learned counsel for the petitioner submits that though the aforesaid writ petition was dismissed by a Bench of this Court but in view of the observation given in that case, the petitioner should have been allowed to continue in service till December, 2003 but that has not been done by the respondent-authority. Hence the present writ petition has been filed.

7. When this matter was earlier listed on 22.08.2003



before the same Bench which had passed the order dated 30.06.2003 in CWJC No. 2642 of 2003 (Annexure-10), the learned Judge in stead of passing any positive order either directing the respondent authorities to accept the joining of the petitioner or make payment of his salary till December, 2003, issued a show cause notice to the DIG of Police (Personnel), Bihar as to why a contempt proceeding be not initiated against him. It also appears that show cause was filed by the respondent DIG of Police but no further order was passed. Suo Motu contempt proceeding vide MJC No. 1649 of 2003 was directed to be listed along with the main writ petition i.e. CWJC No. 7254 of 2003.

8. After having heard the parties and taking into consideration the materials on record, this Court finds that so far as the correction of date of birth in the service book of the petitioner is concerned, that stand concluded by two orders passed on 23.01.2002 in CWJC No. 1261 of 2002 and again on 30.06.2003 in CWJC No. 2643 of 2003 (Annexure-10). Now, at this belated stage, that chapter cannot be reopened.

9. Now coming to the alternative prayer made on behalf of the petitioner, who has already superannuated from service, that a direction be issued to the respondents to pay him salary till December, 2003, this Court is of the opinion that even that relief cannot be granted. Admittedly, while passing the order dated 30.06.2003 in CWJC No. 2643 of 2003 though some observations were made there, but no such direction was issued by the learned Single Judge. Even in the present proceeding, though matter was heard on different dates but no such order/observation was ever made earlier. At this late stage, if any direction for payment of salary for six month i.e. till December, 2003 is issued,

then also the entire issue will not end there in the matter. If such a direction is issued, then naturally the petitioner shall have entitlement to claim his revision of retrial dues and pension etc., which would lead to reviving a dead issue, as the same has already attained its finality.

10. For the reasons recorded above, the writ petition has to fail and is accordingly dismissed. Consequently, MJC No. 1649 of 2003 has also to fail and is dismissed. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

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