

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20846 of 2014

- =====
1. The Union Of India through G.M., East Central Railway, Hajipur, District - Vaishali (Bihar)
 2. The General Manager (Personnel), East Central Railway, Hajipur, District - Vaishali (Bihar)
 3. The Divisional Railway Manager, East Central Railway, Samastipur (Bihar)
 4. The Senior Divisional Personnel Officer, East Central Railway, Samastipur (Bihar)
 5. The Senior Divisional Mechanical (Carriage AND Wagon) Engineer, East Central Railway, Samastipur (Bihar)
 6. The Divisional Financial Manager, East Central Railway, Samastipur (Bihar)

.... Petitioner/s

Versus

1. Radhey Shyam Rai Son of Sri Ram Udgar Rai Resident of Jaitwarpur, Masdanchak, District - Samastipur (Bihar)

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sunil Kumar Ravi

For the Respondent/s : M/S M.P. Dixit, S.K. Dixit, Sanjay Kr. Choubey & Shailendra Kumar

=====

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 25-08-2015

Heard Mr. Sunil Kumar Ravi in support of I.A.No. 6780 of 2015, which is primarily for stay of the judgment and order of the Central Administrative Tribunal, Patna Bench, passed in O.A. No. 97 of 2013, being order dated 1st April, 2014.

2. Having heard learned counsel for the petitioners and learned counsel for the contesting private respondent, instead of deciding the matter with regard to stay, with their consent, the writ petition has been heard on merits.

3. In the facts and circumstances, noted hereunder, we are not inclined to exercise our writ jurisdiction in the matter, and

entertain this writ petition.

4. The applicant before the Tribunal, who is a contesting respondent here, was a casual labourer in the Railways. In the year 1983 he was granted temporary status and, accordingly his service book was opened. In the service book his date of birth was registered as 1-4-1959. He worked for over two and a half decades without question. All of a sudden, in the year 2010 he was forced to retire on the ground that he had wrongly noted his date of birth as 1-4-1959 instead 1-4-1949. He was, accordingly, made to superannuate with effect from 31-3-2009. It is this action he challenged before the Tribunal. The Tribunal set aside the order and the action of the Railways, and directed the Railways to treat the petitioner in service with date of birth as 1-4-1959. The Tribunal held that the service book clearly noted his date of birth to be 1-4-1959, and the service book was admittedly opened in the year 1983. There was no overwriting or cutting. No document of the employee was brought on record to show that he had ever declared his date of birth of anything different. He was twice medically examined. Enquiries were made from the school, but nowhere there could be discrepancy. The only thing that the Railways could bring on record was that in the year 1993 i. e., ten years after he had been granted temporary status, a letter was sent to the office of the General Manager, seeking information in respect of the employee on the ground that he was over-age for being considered to be appointed on temporary status. In that letter the official mentioned that his date of birth, as a casual employee, was noted as 1-4-1949. Even if this was so, firstly it is only a letter of the Railway official with no supporting document of the employee. Secondly, this was what was known in the year 1993. Why no steps to correct the service book was ever made? These steps were only taken in 2010 at

the fag end of the career of the employee, who had already served over twenty seven years. It is in this view of the matter, we are not inclined to interfere.

5. This writ petition is, accordingly,dismissed.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

BK.Roy/-

U			
---	--	--	--