

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16840 of 2011

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Sheo Nath Thakur Son Of Late Mahabir Thakur Resident Of Village-
Baswariya (Back Of Masjid) P.S.- Bettiah, District- West Champaran

.... Petitioner/s

Versus

1. The Presiding Officer, Labour Court, Muzaffarpur
2. The Chairman Bihar State Electricity Board, Bailey Road, Patna
3. The General Manager Cum Chief Engineer, Tirhut Electric Supply Area,
Muzaffarpur
4. The Superintendent Engineer, Electrical Circle, Motihari
5. The Electrical Executive Engineer, Electric Supply Division, Bettiah

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Ravish

For the Respondent/s : AC to GP 22

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3 20-07-2015 Heard Sri Kumar Ravish, learned counsel for the

petitioner and learned AC to GP No. 22. None appeared on behalf

of the respondent /Bihar State Electricity Board.

The petitioner, who retired with effect from 31.7.1991
as Skilled Khalasi from the Bihar State Electricity Board has
approached this court invoking its writ jurisdiction under Article
226 of the Constitution of India with a prayer to set aside the
Award dated 8.12.2010 in Reference Case No. 10 of 1992. By
the said Award the term of reference has been refused. The
reference was made as to **“Whether the retirement of Sri
Sheonath Thakur, Skilled Khalasi on the basis of date of
birth dated 18.7.1931 is proper? If not, what relief Sri**

Thakur is entitled to?”.

The learned Presiding Officer, Labour Court by the impugned order has rejected the reference case.

Learned counsel for the petitioner submits that at the time of appointment the petitioner had produced medical certificate to show that at the time of appointment he was aged about 24 years. According to him, had it been correctly recorded in the Service Book, the petitioner would have superannuated with effect from 31st July , 1999, whereas, petitioner was forced to retire with effect from 31.7.1991. He accepts that for the first time the petitioner raised objection regarding entry in respect of date of birth on 14.2.1981 , and finally, Board rejected the same on 30.4.1991. Thereafter, petitioner was forced to retire on 31.7.1991. It has also been admitted that dispute was subsequently raised under the Industrial Disputes Act, 1947 whereby, reference was made and reference case was started vide Reference Case No. 10 of 1992 in the year 1992. He submits that once the Tribunal had considered that medical certificate was produced by the petitioner at the time of appointment, the date of birth of the petitioner was ought to be corrected, which has not been done and the learned Labour Court has incorrectly rejected the reference case. At the time of hearing



it was accepted by learned counsel for the petitioner that after the appointment of the petitioner on 24.6.1963 as Un-skilled Khalasi his Service Book was opened and in Service Book date of birth of the petitioner was recorded as 18.7.1931. It has further been accepted that petitioner has put counter signature in the Service Book.

The court is of the opinion that once Service Book was opened in the year 1963 itself and in Service Book date of birth was recorded on the basis of which the petitioner had superannuated on 31.7.1991, at belated stage, if such dispute was raised was ought to be rejected without any consideration. However, in this case objection was raised in the year 1981 whereas, Service Book was opened in the year 1963 with counter signature. The objection raised by the petitioner was rejected on 30.4.1991. After retirement dispute was raised under the Industrial Disputes Act, 1947 which has come to an end against the petitioner. It is also accepted that service law which is applicable to the State Government employees is mutatis mutandis applies to the employees of the Bihar State Electricity Board. In view of Rule 96 of the Bihar Financial Rules, 1950 in case of any dispute regarding date of birth objection is to be raised within a period of ten years only. In this case admittedly dispute

has been raised after about eighteen years.

After hearing learned counsel for the petitioner and State and perusing the order passed by the Labour Court, the court is of the opinion that no error has been committed by the court below.

The writ petition stands dismissed.

(Rakesh Kumar, J)

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