

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1892 of 2013

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Doon Bahadur Choudhary S/O Late Chander Choudhary R/O Village-
Dumaria Buzurg, Police Station- Parbatta, District- Khagaria Petitioner
Versus

1. The State Of Bihar Through The Collector, Khagaria
 2. The District Board, Khagaria, Through Its Chairman
 3. The Chairman, District- Board, Khagaria
 4. Deputy Development Commissioner-Cum-Chief Executive Officer
District Board, Khagaria
 5. Additional Chief Executive Officer District Board, Khagaria
 6. The Civil Surgeon-Cum-Chief Medical Officer, Khagaria
- Respondents
- =====

Appearance :

For the Petitioner/s : Mr. AK Tiwary, M.Raza and MK Singh, Advocate
For the Respondent/s : Mr. Nikesh Kumar, Advocate

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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA
PRATAP SINGH**
ORAL ORDER

4 08-10-2015 The petitioner was initially appointed as a daily rated car driver in the Zila Parishad, Khagaria. Subsequently his services was confirmed. The petitioner seeks quashing of the order dated 14.11.2011, whereby he has been made to superannuate treating his age to be 60 yeas on 31.12.2011 as per report of the Medical Board.

The petitioner has questioned the impugned order on the ground that the earlier Medical board held on 31.7.2001, assessed his age between 40 to 50 years.

It is true that the earlier Medical board assessed the age of the petitioner as 40 to 50 years but the subsequent Medical board held on 5.10.2009, found him to be between 55 to 60 years, on basis of physical examination, dental and radiological tests. The report of the Medical board, dated 5.10.2009, is annexed as Annexure 7. In view of Medical board dated 5.10.2009, the Zila Prishad adopted a middle path and treated his age as 58 years, on

31.12.2009 and accordingly he was superannuated on 31.12.2011 at the age of 60 years.

The petitioner submits that the respondents ought to have estimated his age as 55 years instead of 58 years in the year 2009 in view of 1st report of Medical Board of the year, 2001. Furthermore, the subsequent Medical Board did not hold ossification test which was necessary for ascertaining his age. Thus much value should not be attached to 2nd Medical Report of 2009. Besides this, the Zila Parishad has not paid him all the retiral dues.

I find that the Medical Board dated 5.10.2009 has assessed the age of petitioner as 55 to 60 years in 2009 on basis of a number of tests. The Medical Board report cannot be discredited merely because ossification test has not been held. It is not the case of the petitioner that earlier Medical Board has assessed the age on basis of ossification test. Thus, I do not find any infirmity in the impugned order retiring the petitioner on 31.12.2011. So far as non payment of retiral dues is concerned, the petitioner may make representations before respondents which would be duly considered in accordance with law.

Needless to state that the Zila Parishad would ensure payment of all the admitted dues to the petitioner at the earliest.

(Samarendra Pratap Singh, J)

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