

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.222 of 2011

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Kamala Singh son of Sri Sheo Narayan Singh Resident Of Village Maharaja, Post
Office Bharauli, Police Station Shahpur, District Bhojpur.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary Government Of Bihar, Old
Secretariat, Patna.
2. The Director General Cum Inspector General Of Police, Bihar, Old Secretariat,
Patna.
3. D.I.G. Of Police, B.M.P., Northern Zone, Muzaffarpur.
4. Commandant, B.M.P.-7, Katihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Pandey, Advocate

For the Respondent/s : AC to SC 25

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 08-10-2015

Heard Sri Arun Kumar Pandey, learned counsel for the
petitioner and learned AC to SC No. 25.

The petitioner invoking writ jurisdiction of this court under
Article 226 of the Constitution of India has prayed for quashing of a
communication made in memo no. 2695 dated 13th May 2009 issued
from the office of Director General of Police (Annexure - '4' to the
writ petition). By the said order in compliance with the order passed
by a bench of this court in C.W.J.C. No. 8435 of 2000 petitioner's
representation regarding his claim for correction of date of birth in the
service book has been rejected.

Learned counsel for the petitioner submits that the



petitioner was appointed in the year 1966 as Constable. In the service book his age was recorded as 24 years and as such, his date of birth was considered as 23.11.1942. A plea has been taken that subsequently in the year 1975 the petitioner had submitted his matriculation certificate in which his date of birth was recorded as 7.7.1948 and as such, he had requested for correcting the date of birth in his service book. He submits that since no communication was made to the petitioner after submission of the application by the petitioner along with the certificate, the petitioner presumed that his date of birth had already been corrected. However, for the first time in the month of May, 2000 petitioner received a communication whereby he was intimated that he was going to superannuate with effect from 1.12.2000. Immediately thereafter petitioner filed representation before the authority concerned regarding correction of date of birth. Since no decision was taken on his representation the petitioner rushed to this court and filed a writ petition vide C.W.J.C. No. 8435 of 2000. The said writ petition was finally disposed of on 24.5.2007. In view of the fact that on representation filed by the petitioner no decision was taken by the authority concerned, accordingly, this court directed the authority concerned to refer the representation of the petitioner to the Director General of Police to examine the claim and pass appropriate order in accordance with law.



This court further indicated that if the claim of the petitioner regarding correction of date of birth is accepted, then in that event consequential order should be passed for granting all benefits to the petitioner. In view of the order of this court dated 24.5.2007 the impugned order has been passed which is at Annexure - '4' to the writ petition.

Learned counsel for the petitioner submits that the petitioner was a constable and as such, he was not aware as to whether after his request, which was made in the year 1975, his date of birth in the service book was corrected or not and immediately after noticing the fact regarding the date of retirement of the petitioner in the year 2000 itself, the petitioner had filed representation. Of -course after the order of the writ court dated 24.5.2007 in C.W.J.C. No. 8435 of 2000 the Director General of Police has passed order but same has not been passed in accordance with law. Accordingly, he makes a prayer for setting aside the order and grant consequential benefits to the petitioner.

Of- course in this case no counter affidavit has been filed, however, I have perused the materials available on record. In the earlier writ petition from the petitioner's side a counter affidavit was filed, which was noticed by this court. In the said counter affidavit it was indicated that the petitioner was granted promotion as 'illiterate

havildar' in the year 1996. Meaning thereby, that the petitioner had availed the benefit as being 'illiterate' and got promotion. Even at that very time he had not disclosed that he was matriculate. Moreover, from the order impugned it is evident that as per Rule 1041 (B) of the Bihar Police Manual, dispute in respect of correction of date of birth is required to be raised only within a period of ten years. It is admitted fact that in the present writ petition the petitioner had raised all such disputes on the verge of his retirement. Accordingly, in view of the facts and circumstances, on perusal of the impugned order, the court is satisfied that no illegality has been committed.

The writ petition stands dismissed.

(Rakesh Kumar, J)

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