

Smt. Anita Kumari, W/o Late Rajesh Kr. Singh, resident of Village
Nausahara, P.S.- Ghosi, District- Jehanabad Petitioner
Versus

Appearance :

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

2. The petitioner seeks quashing of the letter dated (Annexure-5) and letter dated 21.11.2012 (Annexure- she has been directed to make her signature on new t with her revised date of birth.

The petitioner's husband died in harness on 23.05.1999 while serving in Bihar State Electricity Board. The petitioner applied for compassionate appointment. In support of proof of her age, she filed her School Leaving Certificate of Class



X, wherein her date of birth was mentioned as 25.12.1971, backed with self sworn affidavit. Not being convinced with proof of age, she was subject to medical test. The Medical Board in its report, dated 10.06.2000, assessed her age between 26 years to 28 years, taking average of minimum and maximum age, her age was assessed at 27 years, on the date of examination on 10.06.2000.

4. The petitioner was finally appointed on compassionate ground vide office order No.129, dated 28.03.2003 of the Board, wherein her date of birth was mentioned as 10.07.1971, as per Medical report. The General Manager-cum-Chief Engineer vide its letter, dated 24.8.2009 addressed to the Secretary, Bihar State Electricity Board stated that there is discrepancy in the letter, dated 28.3.2003 of the Board as well as the entry in the service book, with respect to date of birth, both of which were said to be based on report of the Medical Board. The General Manager-cum-Chief Engineer, as such requested for issuing necessary directions for opening of a new service book, on cancelling the old one. On 03.05.2012, the petitioner was asked by the respondent Board to put her signature on the new service book, in which her date of birth was purported to be entered as 25.12.1971 which was the date of birth recorded in her School Leaving Certificate produced by her.

5. The petitioner protested vide her petition, dated

14.05.2012 filed through her lawyer, against the opening of new service book. The respondent Board vide its letter, dated 21.11.2012 addressed to the counsel for the petitioner, rejected the objection as being devoid of any merit in view of its standing order under the Industrial employment Act, 1946.

6. The petitioner being aggrieved, has assailed the impugned order, dated 03.05.2012 (Annexure-5) whereby she has been asked to put signature on her new service book. She has also challenged the letter, dated 21.11.2012 of the respondent Board rejecting her objection. The petitioner submits that the respondent Board not being satisfied with the proof of age mentioned in her School Leaving Certificate, conducted a medical test in which her date of birth was assessed as 27 years on 10.6.2000, as per which her age would date back to 10.06.1973 in place of 31.12.1971.

7. The petitioner submits that it is not open for the respondent Board to rely upon the report of the Medical Board which was conducted at its own instance. In nut shell, the petitioner submits that there is no need for opening of a new service book, as the report of the Medial Board would have prominence over School Leaving Certificate.

8. Learned counsel for the Board submits that as the petitioner has not produced her matriculation certificate, she was subjected to medical examination in a routine manner to assure



whether the date of birth as mentioned in the School Leaving Certificate and affidavit produced by her are correct or not. As per School Leaving Certificate, her date of birth was 25.12.1971 and as per assessment of the Medical Board, her date of birth was assessed as 10.6.1973. The respondent Board cannot be faulted for accepting the self declared date of birth by the petitioner backed by her School Leaving Certificate.

9. I have heard learned counsel for the parties.

10. The petitioner was appointed on compassionate ground on 28.3.2009 as her husband died in harness while serving as a Class IV employee. In proof of her age, the petitioner produced School Leaving Certificate, self sworn affidavit besides affidavit of her mother-in-law and her brother-in-law. As per School Leaving Certificate and the different affidavits including the affidavit sworn by the petitioner, her date of birth was 25.12.1971. It appears that as per Standing Order of the Board under the Industrial Employment (Standing Order) Act, 1946, the matriculation certificate or School Leaving Certificate or horoscope shall be deemed to be a satisfactory proof of age of workman. If the workman is unable to produce the documentary evidence or the document produced is not admitted, the person concerned would be required to make a written declaration that the age stated by her or him is correct. Such written statement should

be supported by an affidavit. Further more, at the option of the appointing authority, the workman can be sent to Government Medical Officer for examination which report would be binding upon the workman.

11. As per the Standing Order, the School Leaving Certificate would form one of the satisfactory proofs of age of a workman. In case of doubt, it is open to the Board, to have such workman examined by a Medical Doctor, whose report would be binding on the workman. The petitioner has placed reliance on this part of the Standing Order that the age determined by the Medical Board ought to have accepted as correct date of birth. In my view, in order to fully satisfy itself, the Board can ask the applicant to under go medical examination for determination of age. As per Standing Order under Act, 1946, the Medical Report would be binding on the workman. The Board normally too is expected to accept the same. Nonetheless, it is not open for a workman to raise any grievance, if the Board ultimately accepts his/her own affidavit and School Leaving Certificate, so produced in support of his/her age. It is also not open for the applicant to ask the appointing authority not to rely upon the documents produced by her in support of her age. Though, the Board would have option either to accept the date of birth mentioned in the self sworn affidavit and the School Leaving Certificate produced by the

petitioner or the report of the Medical Board, the latter (petitioner) cannot validly object to either of the two, if the appointing authority chooses to rely upon own documents produced by her, as such, the impugned order by which the respondents proposed to open a new Service Book, with a revised date of birth, based upon the own affidavit and School Leaving Certificate of the petitioner, cannot be said to be suffering from any infirmity.

12. In the result, I do not find any merit in this application. It is, accordingly, dismissed.

(Samarendra Pratap Singh, J.)

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