

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1922 of 2012

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Ram Ekbal Pandey S/O Ram Lakshan Pandey, Resident of Village- Kuar Tola,
P.O- Dayalpur, Police Station- Janta Bazar, District- Saran (Chapra), retired as a
Hawaldar, Police Line, Hajipur, District Vaishali.

.... Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary (Home) Police Department, Govt. of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Deputy Inspector of Police (Personnel), Bihar, Patna
5. The Inspector General of Police, Muzaffarpur Zone, Muzaffarpur.
6. The Deputy Inspector of Police, Tirhut Range, Muzaffarpur.
7. The Superintendent of Police, Vaishali at Hajipur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Umesh Kumar Mishra, Advocate
For the Respondent/s : Smt. Kumari Amrita, GP-10

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 14-03-2016

Heard learned counsel for the appellant, who is the unsuccessful writ petitioner. His contention, as before the writ court, was that due to mistake his date of birth was entered in the service book as 1947 instead of 1954, which is supported by entries in the school register. Learned Single Judge noticed that if this was accepted then, as the State also accepted, he would have been ineligible for recruitment because if the date of birth is taken to be 1954 he would be under 18 years of age and could not have been recruited.

Learned counsel for the appellant states that this issue cannot be looked into as his grievance is limited to the date of retirement. We are sorry, we cannot accept, for, if he relies on a document for one purpose, he cannot say that the document cannot be looked into for another purpose, the document being one and the same. In other words, he cannot approbate and reprobate at the same time. Either his appointment was void ab initio which would normally disentitle him to any pensionary benefits or his retirement as done by the Department cannot be questioned. In our view, the petitioner-appellant having worked would surely be entitled to pensionary benefits but that could be according to the original entries in the service book showing his date of birth to be of the year 1947. We, thus, do not find any reason to interfere with the order of the learned Single Judge. This appeal is dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh/-

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