

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2272 of 2013

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1. Shyam Nandan Singh S/O Late Subh Dayal Singh Resident Of Babura Kothi, Mohalla Dandibagh, P.O. Chand Chaura, P.S. Civil Lines, District Gaya.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. The Commissioner Cum Secretary, Urban Development Department, Govt. Of Bihar, Patna.
3. The Commissioner, Magadh Division, Gaya.
4. The District Magistrate, Gaya.
5. The Gaya Municipal Corporation, Gaya Through Its Commissioner.
6. The Town Commissioner, Gaya Municipal Corporation, Gaya.'

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Praveen, Adv.
For the Respondent/s : Mr. P.K.Sinha, AC to AAG-2
Counsel for the Corpn. : Mr.R.K.Priyadarshi, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

5 04-01-2016

Heard counsel for the petitioner and the respondents.

Counsel for the petitioner submits that petitioner has wrongly been superannuated from service e with effect from 30th November 2012, rat her he should be allowed to work upto 30th Sept ember 2013 taking plea of modification in the service e rule enhancing the age of superannuation.

It is not in dispute that the petitioner has remained in service for 40 years and the petitioner had challenged the order of his superannuation in CWJC No. 6752 of 2011 by which this Court has consider ed and found that the petitioner had complete d

40 years of service and, as such, he cannot take benefit of change in the Rules and relying on the judgment reported in 2007(4) PLJR 317 rejected the claim.

Counsel for the petitioner submits that it could not be brought to the notice of the Court about the date of appointment which is apparently clear from the report as well as Annexure-1 to this petition.

When the petitioner has already tested the issue of superannuation and the matter has concluded, now he cannot be allowed to take the plea that certain points which could have helped him, have been left out in the earlier writ petition and it cannot be the basis of subsequent writ petition as it would be hit by the principle of constructive res judicata.

Accordingly this petition is dismissed.

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(Shivaji Pandey, J)