

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15818 of 2015

Shambhu Roy, Son of Late Badri Roy, resident of Railway Quarter No. 454/B, Gandhi Park, P.O. & P.S. Samastipur, District- Samastipur, permanent resident of Magardahi, Ward No. 29, Narhan Estate, Samastipur, P.S. Samastipur, District- Samastipur.

.... .... Petitioner/s

Versus

1. The Union of India, through the General Manager, East Central Railway, Hajipur, Vaishali
2. The Chief Personnel Officer, East Central Railway, Hajipur, Vaishali
3. The Divisional Railway Manager, Samastipur Division, East Central Railway, Samastipur
4. The Senior Divisional Personnel Officer, Samastipur Division, East Central Railway, Samastipur
5. The Senior Divisional Commercial Manager, Samastipur Division, East Central Railway, Samastipur
6. The Station Superintendent, Samastipur Station

.... .... Respondent/s

Appearance :

For the Petitioner/s : Mr. Gautam Bose, Sr. Advocate  
For the Respondent No. 2 to 6 : Mr. Devendra Prasad Sinha Sr. Advocate  
: Ms. Binita Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 16-05-2016

Heard learned counsel for the parties.

The petitioner has moved this Court against the order dated 21<sup>st</sup> April, 2015 passed by the learned Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the 'Tribunal'), by which O.A. No. 050/00137 of 2015 filed by him has been dismissed.

The petitioner had approached the Tribunal being

aggrieved by order dated 27.01.2015 issued by the respondent no. 4, intimating that the Competent Authority had upheld the date of birth recorded in the service book of the petitioner as valid and request for change had been rejected.

Learned counsel for the petitioner submits that he was initially appointed on a Group-D post of Peon on 16.09.1980 on the basis of his qualification as Matric where his date of birth was recorded as 22.10.1961. It is submitted that in due course, he was promoted to Group-C post of Ticket Collector with effect from 21.12.1989 and was further promoted as Travelling Ticket Examiner by office order dated 17.02.1994. He submits that for the first time in the seniority list dated 13.07.2012, the date of birth of the petitioner was shown as 05.03.1955 instead of 22.10.1961 due to which he filed representation on 03.12.2013. It is submitted that the respondents, by letter dated 12.01.2015, had intimated to him that he was going to retire on 31.03.2015 but had also asked for documents to prove his date of birth as the same was not available in his service book. Learned counsel submits that he has submitted his School Leaving Certificate and Matriculation Certificate, but without considering the same, his representation for correct recording of his date of birth, was rejected by order dated 27.01.2015.

Learned counsel for the respondents submits that the petitioner has not correctly disclosed the facts. It is submitted that the petitioner was initially engaged as Substitute on



01.08.1975 and was granted temporary status on 30.12.1975, when he had declared his date of birth as 05.03.1955 and was later regularized on 16.09.1980 as per the extant rules and thus was to superannuate on 31.03.2015. He submits that the petitioner never disputed the date of birth in his entire service, which would be evident from the P.F. application forms submitted on 22.12.1986, 26.11.1990, 19.03.2007, 18.05.2011 and 16.04.2012 as also the Leave Encashment application forms submitted on 21.11.2011 and 20.05.2014. He submits that the post of HTTE is a promotional post, not linked to passing of Matriculation examination. It is submitted that if the date of birth of the petitioner is taken as 22.10.1961 then in 1975, when he was initially engaged, he would have been under age and thus could not have been so engaged.

Having considered the rival contentions, we do not find any merit in the writ application. The petitioner having been engaged as Substitute on 01.08.1975 cannot take the plea of his date of birth being 22.10.1961 as that would have made him less than 14 years and thus he could not have been appointed at all. Further, the stand of the respondents, that at the time of initial engagement he had himself declared his date of birth as 05.03.1955 and such date of birth was also filled up in the P.F. and Leave Encasement application forms submitted by him, has not been controverted by the petitioner. He has also not denied the fact that he was initially engaged as Substitute on 01.08.1975 and

later regularized on 16.09.1980.

In view of the discussion made hereinabove, we do not find any ground has been made out to interfere in the order of the Tribunal dated 21<sup>st</sup> April, 2015, which is well considered both on facts as well as in law.

Accordingly, the writ petition stands dismissed.

**(Hemant Gupta, J.)**

**(Ahsanuddin Amanullah, J.)**

P. Kumar  
NAFR

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