

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 1667 of 2012

IN

Civil Writ Jurisdiction Case No 5045 of 2005

- =====
1. The State Of Bihar through the Chief Secretary, Bihar, Patna
 2. The Director General-Cum-Inspector General of Police, Bihar
 3. The Inspector General, Military Police, Bihar, Patna
 4. The D.I.G. Of Police, Military Police, Central Zone, Patna
 5. The Commandant, BMP- 10, Patna

.... Appellant/s

Versus

Nemit Singh Son Of Late Ram Briksh Singh Resident Of Village Sewati, P.S.
Dhnaurua, District- Patna

.... Respondent/s

WITH

Letters Patent Appeal No 310 of 2013

- =====
1. The State Of Bihar, Through the Chief Secretary, Government of Bihar, Patna.
 2. The Director General- Cum- Inspector General of Police, Bihar Old Secretariat, Patna.
 3. The Inspector General of Police, Military Police, Government of Bihar, Patna.
 4. The D.I.G. Of Police, Bihar Military Police, Central Zone, Patna.
 5. The Commandant, B.M.P. 14, Patna.

.... Appellant/s

Versus

1. Kartik Nath Singh S/O Late Indradeo Singh Resident Of Village- Mothi, Via- Jitaura, P.O- Rajya, P.S- Piro, District- Bhojpur At Arrah.
2. Awadesh Kumar Sah S/O Late Rajdeo Sah Resident Of Village + P.O- Jamuanwa, Via Jitaura Bazar, P.S- Piro, District- Bhojpur At Arrah.
3. Mahanth Singh S/O Late Girbar Singh Resident Of Village+ P.O- Barauli, Via- Piro, P.S- Piro, District- Bhojpur At Ara.

.... Respondent/s

Appearance :

(In LPA No. 1667 of 2012)

For the Appellant/s : Mr. MADHUKAR MISHRA

For the Respondent/s : Mr.

(In LPA No. 310 of 2013)

For the Appellant/s : Mr. RAJIV RANJAN TIWARI

For the Respondent/s : Mr.

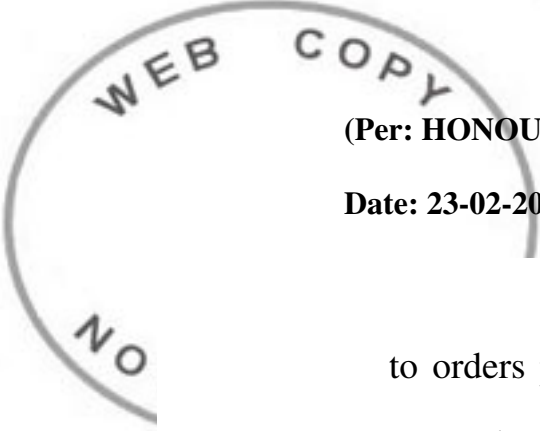
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**CORAM: HON'BLE MR JUSTICE HEMANT GUPTA
&
HON'BLE MR JUSTICE NAVANITI PRASAD SINGH**

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE HEMANT GUPTA)

Date: 23-02-2016



The challenge in the present Letters Patent Appeals are to orders passed by the learned Single Judge on 29th of April, 2011 and 10th of May, 2011 respectively holding that the date of birth of the writ petitioners be treated as 01st of July, 1947 in terms of Rule 97 (1) of Bihar Financial Rules (*for brevity, the Rules*) and consequently they would superannuate on 30th of June, 2007 after attaining the age of 60 years in terms of notification dated 24th of March, 2005.

2 The respondents were appointed on 01.02.1968 as Constables. They have disclosed their date of birth as 1947 without disclosing date and month of their birth. They were made to superannuate on 01st of February, 2005 which was on the basis of imaginary date and month of birth in the service book.

3 The superannuation was disputed by the respondents in the writ petitions. The learned Single Judge has rightly found that in terms of Rule 97 (1) of the Rules, 01st of July of the year has to be treated as date of birth and consequently their superannuation would be on 30th of June, 2005. Since, in the meantime on 24.03.2005, the State Government has enhanced the superannuation age from 58 to 60

years, therefore, the respondents' superannuation would be on 30th of June, 2007 and would be entitled to all consequential benefits. Rule 97 (1) of the Rules reads as under:

“97 (1) If a Government servant is unable to state his exact date of birth but can state the year, or year and month of birth, the 1st July or the 16th of the month respectively may be treated as the date of his birth.”

4 Admittedly, the respondents have disclosed their year of birth as 1947. Therefore, in terms of sub clause (1) of Rule 97 of the Rules, 01st July is to be treated as date of birth. In view of the said clause, they would attain the age of superannuation on 30th of June, 2005 but before attaining the age, the age was extended to 60 years. Therefore, they would superannuate on 30th of June, 2007. Such is the order of the learned Single Judge.

5 We do not find any infirmity in the order of the learned Single Judge which may warrant any interference in the present Letters Patent Appeal. The appeals are dismissed.

(Hemant Gupta, J)

M.E.H./-

(Navaniti Prasad Singh, J)

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