IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 6629 of 2008

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Kusheshwar Mahto son of Late Dharphari Mahto, resident of village Bishunpur Garh, P.S. Goraul, District – Vaishali.

.... Petitioner

Versus

1. The State of Bihar
2. The Chief Engineer-cum-Addl. Commissioner-cum-Special Secretary, N.H.Bihar, Patna.
3. The Superintending Engineer, N.H.Circle, Maripur, Muzaffarpur.
4. The Executive Engineer, N.H.Division, Muzaffarpur.
5. The Executive Engineer, N.H.Division, Motihari.

.... Respondents

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Appearance :
For the Petitioner/s : Mr. Narendra Kumar Sharma
For the Respondent/s : Mr. S. Raza Ahmad (AAG5)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL JUDGMENT
Date: 16-01-2017

Heard Sri Narendra Kumar Sharma, learned counsel for the petitioner and Mr. S. Raza Ahmad, learned Additional Advocate General – 5.

2. The petitioner has approached this Court invoking its writ jurisdiction under Article 226 of the Constitution of India, with a prayer to quash an order dated 24-01-2008 to the extent of serial no. 2 (petitioner), whereby petitioner, vide Memo No. 77 dated 24-01-2008 (Annexure - 9) was intimated his date-of-retirement as 31-03-2008. The petitioner has further prayed for directing the respondents to pay some of the claimed arrear salary.

3. Learned counsel for the petitioner admits that in the Service Book, his date of birth was recorded as 02-03-1948, however; he submits that petitioner had produced school certificate to show that

his date of birth was 02-03-1949 (Annexure – 1) and as such, as per school certificate, he was required to superannuate w.e.f. March, 2009, not in March, 2008. It has not been disputed that in the Service Book, the date of birth was recorded as 02-03-1948. Learned counsel for the petitioner admits that prior to issuance of Annexure – 9, the petitioner had never raised any dispute regarding correction of date of birth.

4. Learned Addl. Advocate General – 5 submits that in view of Rule – 96 of the Bihar Financial Rules, dispute regarding correction of the date of birth can be raised within 10 years from the date of appointment. It has been argued that the petitioner, in view of Annexure – 9, was subsequently made to retire w.e.f. 31-03-2008 and after retirement, the present writ petition was filed.

5. Learned counsel for the petitioner makes a prayer for disposal of the present writ petition so that at least in respect of his due salary, the petitioner may approach the authority concerned. He accepts that he has been precluded from raising any dispute in view of Rule – 96 of the Bihar Financial Rules, however regarding other claim he makes a prayer for disposal of the present petition so that if so advised, the petitioner may approach the authority concerned.

6. Learned Addl. Advocate General – 5, even regarding claim of arrear of due salary, submits that this has already been dealt with in the counter affidavit.

7. Be that as it may in view of facts and circumstances, the

writ petition stands disposed of without recording any favourable order in respect of correction of date of birth. So far as other relief is concerned, the Court is of the opinion that in one writ petition, one may not be allowed to raise distinct reliefs. Since main relief in the present writ petition was regarding correction of date-of-birth, which has not been entertained, this Court is refrained from passing any observation in respect of other claims i.e. promotion and arrear of due salary.

8. The writ petition stands disposed of.

(Rakesh Kumar, J.)

Anay

AFR/NAFR	
CAV DATE	N/A
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