

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3983 of 2014

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1. Mithilesh Kumar Singh Son Of Late Ram Kripal Singh Resident Of
Village- Raghunathpur, Police Station- Kudhani, District- Muzaffarpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Director General of Police, Patna
3. The Inspector General of Police, Bihar, Patna
4. The Deputy Inspector General of Police, Bihar
5. The Superintendent of Police, Railway, Muzaffarpur, Bihar
6. The Deputy Superintendent of Police, Railway, Sonapur-Cum-Enquiry Officer
7. The Headmaster, Sondho High School, Vaishali

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Jagannath Singh, advocate
For the State : Mr. Md. Obaidullah, AC to SC 10
For the respondent No.7: Mr. Anirudh Kumar Sinha, advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

6 25-07-2017 Heard both sides.

2. The petitioner prayed for quashing of the order dated 04.06.2008, as contained in memo No. 949, issued under the signature of Superintendent of Police, Railway, Muzaffarpur (Annexure-7). The petitioner further seeks quashing of the order dated 02.12.2008, as contained in memo No. 809, passed by the Deputy Inspector General of Police, Railway, Muzaffarpur (Annexure-8) and the order dated 03.08.2011, as contained in memo No. 3050, passed by the Director General of Police, Bihar, Patna (Annexure-9) by which the appeal/ memorial were



dismissed, confirming the order of dismissal of the petitioner passed by the Superintendent of Police, Railway, Muzaffarpur (Annexure-7).

3. The facts relevant for disposal of the writ petition are that the petitioner in pursuance of an advertisement for appointment on the post of Constable in the district of Purnea applied and submitted 7th pass certificate stating therein his date of birth as 07.04.1966 and the petitioner was appointed on the post of Constable in the year 1985 vide District order No. 2441/1985. A proceeding was initiated on the allegation that petitioner submitted wrong date of birth at the time of his appointment.

4. The petitioner was appointed on the post of Constable in the district of Purnea. The certificate annexed by the petitioner shows his date of birth as 07.04.1966 and the educational qualification of petitioner was 7th pass but the petitioner passed matriculation examination from High School, Sondho, Vaishali in the year 1985 in which his date of birth is mentioned as 04.02.1969, roll code 5322, roll No. 128 and he passed the matriculation examination in 2nd division. It transpired during the enquiry that petitioner again appeared in matriculation examination from Lee Academy, Forbesganj, Purnea in the year 1989 in which his date of birth is recorded as 07.04.1966 bearing



roll code 4213, roll No. 386 and he passed the examination in 3rd division. The petitioner produced fake and forged certificate of 7th pass showing his date of birth as 07.04.1966. It was found that petitioner used fake and forged certificate of his date of birth and, accordingly, vide order dated 04.06.2008 (Annexure-7) the petitioner was dismissed from service. The appeal and memorial of the petitioner were also dismissed (Annexures-8 & 9).

5. Shri Jagarnath Singh, the learned counsel for the petitioner, assailed the orders on the ground that the petitioner had no occasion to produce fake and forged certificate before his appointment in the year 1985. The petitioner appeared in the matriculation examination in the year 1985 from High School, Sondho, Vaishali but due to mistake his date of birth was mentioned as 04.02.1969. The petitioner tried to correct his date of birth but he could not succeed. Thereafter, the petitioner again appeared in matriculation examination from Lee Academy, Forbesganj in the year 1989 stating his date of birth as 04.02.1969. The father of the petitioner sworn affidavit about the date of birth of the petitioner.

6. It is submitted that the Headmaster of Sondho High School, Vaishali was noticed and he stated that date of birth of petitioner is 07.04.1966. The petitioner has already served more



than 20 years and thereafter on such small facts the petitioner was dismissed from service.

7. The learned counsel for the petitioner placed reliance upon a judgement of the Supreme Court reported in the case of **Brij Mohan Singh v. Priya Bhatt, AIR 1965 (SC) 282** to submit that it is the tendency of the Indian people that they got entered wrong date of birth in the school register in order to get benefit for appointment on different posts. He further submits that in other cases such as in the case of **Sulekha Devi v. the State Election Commission**, reported in **2014 (3) PLJR 217** the date of birth entered in the voter list was taken into consideration in stead of date of birth mentioned in the school leaving certificate and on that basis the election of Sulekha Devi was found valid. Similarly, in the case of **Shah Nawaz v. State of U. P.** reported in **(2011) XIII SCC 751** opinion of medical board was discarded in view of date of birth mentioned in the school leaving certificate for determination of the age of the accused under the Juvenile Justice Act. The learned counsel for the petitioner further placed reliance on the judgement of **Bhoop Rai v. the State of U.P.** reported in **AIR 1989 SC 1329** in which the date of birth mentioned in the school leaving certificate produced by the accused was held to be reliable and the opinion of medial board was discarded.



8. On the basis of submission of both sides in the present writ petition the question involves for consideration is not the determination of age of the petitioner rather whether the petitioner has produced fake and forged certificate of 7th pass showing his date of birth as 07.04.1966 whereas the petitioner was juvenile as his date of birth appears in matriculation examination of the year 1985 as 04.02.1969 and on such forged certificate the petitioner fraudulently got appointment on the post of Constable although he being juvenile was not eligible for appointment on the post of Constable.

9. It is submitted that petitioner applied for the post of Constable in the year 1985. The petitioner submitted his certificate of 7th pass issued by Government Middle School, Pachdahi in which the date of birth of petitioner was recorded as 07.04.1966 and on that basis the petitioner was appointed on the post of Constable but in the year 1985 itself the petitioner before his appointment on post of Constable passed matriculation examination from Sondho High School, Vaishali. The date of birth of petitioner was mentioned as 04.02.1969 in the school register as well as in the matriculation certificate issued by the Bihar School Examination Board. After four years the petitioner again appeared in the matriculation examination from Lee Academy, Forbesganj



and on the basis of affidavit filed by father of the petitioner the date of birth of petitioner was recorded in the school register as 07.04.1966. The petitioner appeared in the matriculation examination bearing roll code 4213, roll No. 386 and passed the examination in 3rd division in the year 1989. The petitioner in his show cause also did not dispute this fact that he passed twice the matriculation examination mentioning two dates of birth in two schools, namely, High School, Sondho, Vaishali and Lee Academy, Forbesganj.

10. The petitioner was knowing this fact that he had already passed his matriculation examination from Sondho High School, Vaishali in which his date of birth is mentioned as 04.02.1969 and he was about 16 years on the date of his application for appointment on the post of Constable but the petitioner procured 7th pass certificate from Government Middle School, Pachdahi in which his date of birth is mentioned as 07.04.1966. From the order of Superintendent of Police, Muzaffarpur (Annexure-7), it appears that during the course of enquiry, it transpired that the records of Government Middle School, Pachdahi before 1988 were not available and Headmaster of the school informed that all the records were stolen but no case was registered for theft of records from the school.



11. It transpired that at the time of admission in Sondho High School, Vaishali the certificate of first attended school of the petitioner was not produced. It appears that petitioner knowingly and intentionally produced fake and forged document of 7th pass showing his date of birth as 07.04.1966, in order to get appointment on the post of Constable, although the petitioner had passed matriculation examination before the application made by the petitioner for appointment and in the matriculation certificate date of birth of petitioner was mentioned as 04.02.1969 and on the date of application for appointment to the post of Constable the petitioner was minor and he was not eligible for appointment to the post of Constable.

12. I, therefore, find no substance in the submission of the learned counsel for the petitioner that it is mere mistake on the part of school which had wrongly mentioned the date of birth of petitioner and in fact date of birth of petitioner is 07.04.1966. Thus, it is evident that petitioner obtained his appointment on the basis of forged certificate although the petitioner, on the date of application for appointment, was minor and the petitioner made all the interpolation and produced fake and forged documents in order to get his appointment. Such fraudulently obtained appointment is voidable at the instance of the employer and when this came to the



knowledge of employer the employer held enquiry and came to the conclusion that petitioner obtained his appointment on the basis of fake and forged documents and, accordingly, dismissed the petitioner from service.

13. Having regard to the facts and discussions made above, I find no merit in this writ petition and accordingly the same is dismissed.

(Prabhat Kumar Jha, J)

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