IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11323 of 2014

==

Shatrughan Ram son of Late Munsi Ram Resident of village - Jalalpur, P.O. and P.S. Dhanarua, District – Patna .... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Health Department, New Secretariat, Patna
2. Civil Surgeon - Cum - Chief Medical Officer, Patna
3. Incharge Medical Officer, Primary Health Centre, Dhanarua, Patna
4. Accountant General Officer, of the Account General, (A & E), Bihar, Patna

.... Respondents

==

Appearance :
For the Petitioner : Mr. Deepak Kumar Sinha, Advocate
For the Respondents : Mr. GP Jha, GA 7 and
Mr.S.Krishna, AC to GA 7

==

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT
Date: 06-12-2017

The petitioner was a Sweeper in the office of the Civil Surgeon-cum-Chief Medical Officer, Patna. In the service book of the petitioner, the date of birth was mentioned as 1952. Since the date and month were not specified in the service book, under order dated 9.4.2012 bearing Memo no. 2510 the petitioner was made to retire with effect from 31.3.2012 on attaining the age of 60 years as that was the end of the financial year. While processing retiral dues of the petitioner, the authorities of the office of the Accountant General, Bihar vide letter dated 21.1.2013 raised objection that in case date and month of birth of an employee is not mentioned in the service book the same would be treated as 01/07 and accordingly petitioner's superannuation date would be to 30.6.2012 in place of 31.3.2012. Considering the objection of the AG office, State respondents accepted and corrected the mistake and issued another order dated 12.3.2013 treating the petitioner's retirement date as 30.6.2012. However, they did not allow him salary in between 31.3.2012 to 30.6.2012.

Counsel for the petitioner submits that the details entered in the service book of the petitioner was accepted by the authorities with open eyes since the petitioner was appointed as Sweeper in T. B. Hospital, Koilwar vide letter dated 19.2.1973. He was absorbed in regular establishment vide Health Department, Bihar order dated 22.8.1978 with effect from 22.2.1978.

The mistake of retiring the petitioner with effect from 31.3.2012 has been committed by the authorities and have been corrected pursuant to the objection made by the office of the Accountant General, Bihar. The same was not on the basis of any misrepresentation on the part of the petitioner, as such, he cannot be penalized for the same and denied salary for the aforesaid intervening period of about three months as the respondents, by their arbitrary and baseless action of retiring the petitioner with effect from 31.3.2012 instead of 30.6.2012, have not permitted him to work.

The petitioner would therefore be entitled to payment of his arrears of salary for the period 31.3.2012 to 30.6.2012 as also other consequential benefits.

The writ petition is thus allowed.

(Madhuresh Prasad, J)

Shashi.

NAFR	
CAV DATE	NA
Uploading Date	11.12.2017
Transmission Date	NA