

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1492 of 2013
IN
Civil Writ Jurisdiction Case No. 9707 of 1997**

- =====
1. The Bihar State Electricity Board Through Its Secretary, Now Known As Bihar State Power Holding Company, Bihar, Patna
 2. The Director Of Personnel, Bihar State Electricity Board, Patna
 3. The Chief Engineer - Cum - General Manager, Bhagalpur Area, Electricity Board, Bhagalpur
 4. The Deputy Personnel Director, Area Electricity Board, Bhagalpur
 5. The Electrical Executive Engineer Rural Engineering Cum - Supply Division Jamui
 6. The Assistant Engineer, Electric Supply, Sub - Division, Jamui

.... Appellant/s

Versus

Keshav Jha, Son of Late Kant Lal Jha, resident of village- - Bharat Khand alias Bhatkhand, Police station – Parwatta, District – Khagaria

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Vinay Kirti Singh, Sr. Advocate Mr. Vijay Kumar Verma, Advocate Mr. Akhileshwar Singh, Advocate
For the Respondent/s	:	Mr. V. K. Ray, Advocate Mr. aditya Nr. Singh, Advocate

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 27-02-2017

I. A. No. 8241 of 2013 is for condonation of delay of 72 days.

For the reasons indicated in the interlocutory application, the Court is satisfied that the case for condonation is made out, therefore, the said interlocutory application is allowed.

Appeal is directed against the order, dated 15.10.2012, by virtue of which the writ application of the private-respondent was



allowed and the order, dated 08.09.1997 (Annexure-13 to the writ application), rejecting the claim of the private-respondent with regard to his date of birth, was quashed and a direction was issued to fix 12.08.1944 as his date of birth and his date of superannuation as 31.08.2004.

Learned senior counsel representing the appellants submits that based on the previous direction and order, issued in a writ application, which was C. W. J. C. No. 10180 of 1994, Medical Board was constituted. Age was assessed and thereafter the date of retirement was fixed. Therefore, there was no occasion for the Learned Single Judge to rework the date of birth. Even earlier a Medical Board was held, where the age was assessed, sometime on 26.04.1994, as between 54-56 years.

Despite all these controversies, the Learned Single Judge has gone by the thumb rule. In the service-book of the private-respondent, which was opened by the appellants, the date of birth has been recorded in pen, both in terms of numerals as well as in words, as 12.08.1944. The service-book was verified. There was no interpolation, cutting or over-writing and, therefore, the entire exercise of having repeated opinions of Medical Board were found to be unnecessary and a controversy without controversy. That is why the Learned Single Judge went by the wisdom of declaring that the entry made in the service-book with regard to the date of birth as 12.08.1944 should be treated to be the correct position and as a



consequence thereof, on completion of 60 years, the age of superannuation has to be worked out.

The Division Bench is of the same opinion that if there was entry in the service book of the private-respondent and that entry was duly verified even by the superior authorities, then there was no occasion for holding of Medical Board for reassessing or fixing his date of birth to decide the date of superannuation. The primary evidence or the evidence of date of birth recorded in the service-book and in absence of any controversy with regard to such a recording and the same being maintained by the appellants' authorities themselves or their subordinates, the Learned Single Judge did no wrong but to pin-down the appellants to the date of birth entered by them in the service book and rework the date of retirement.

Rest of the controversies has no relevance to the issue. The decision of the Learned Single Judge does not suffer from any infirmity. Therefore, the appeal is dismissed, being devoid of merit.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

SKM/-

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