

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11970 of 2007

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Krishna Kumar Singh, son of Bhesdhari Singh, resident of village Miazipur,
Police Station Chandauli, District Gaya.

.... Petitioner

Versus

1. The State of Bihar through the Director General-cum- Inspector General of Police, Bihar, Patna.
2. The Director General-cum- Inspector General of Police, Bihar, Patna.
3. Deputy Inspector General of Police (Head Quarters), Bihar, Patna.
4. Superintendent of Police, Nawada.

.... Respondents

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Appearance:

For the Petitioner : Mr. Siya Ram Sahi, Advocate

Mr. Apurva Kumar, Advocate

For the State : Mrs. Binita Singh, SC 28

Mr. Vivek Anand Amritesh, AC to SC 28

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 26-07-2017

Heard learned counsel for the petitioner and learned counsel
for the respondents.

2. The present writ petition has been filed for setting aside the district order no. 898/2007 contained in Memo No. 1059 dated 10.07.2007 (Annexure-2) issued under the signature of the Superintendent of Police, Nawada whereby it was held that the date of birth of the petitioner was 1947 and he was made to superannuate with effect from 30.06.2007; to treat the date of birth of the petitioner as 23.10.1952 and to permit him to continue in service till he reaches the age of superannuation; and to reinstate him in service with effect from 30.06.2007 with all consequential benefits including arrears of salary and for consequential reliefs.



3. The short facts of the case according to the petitioner are that he was appointed as a Constable in Gaya District Police on 24.02.1969. His date of birth was recorded as "1947" in the service book which was subsequently corrected as "23.10.1952" based on his matriculation certificate dated 02.09.1968. By the impugned order, the petitioner's date of birth has been treated in the year 1947 based on the original entry in the service book and in absence of any proper authentication of the correction therein. It was also noted that if the date of birth be taken as "23.10.1952", as claimed by the petitioner, his very entry into service would have been at a time when he was only 16 years, 4 months and 1 day of age and thus less than the minimum qualifying age.

4. Learned counsel for the petitioner and learned counsel for the State have been heard at some length.

5. Without going into the merits of the vehemently contested matter, this Court takes note of the statement made in para 11 of the writ petition wherein the petitioner has denied having received any notice prior to passing of the impugned order. This aspect of the matter has not been controverted in the counter affidavit filed on behalf of the State. It is well settled that before any order is passed to the detriment of a person, principles of natural justice require that he be heard against the proposed action to be taken against him.

6. In this view of the matter, the impugned order dated



10.07.2007 (Annexure-2) is hereby set aside with a direction to the Superintendent of Police, Nawada to consider the matter and pass orders afresh after grant of opportunity of hearing to the petitioner in accordance with law expeditiously, and in any event preferably within a period of three months from the date of receipt/production of a copy of this judgment.

7. The writ petition stands disposed of.

Chandran/BT

(Vikash Jain, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27.07.2017
Transmission Date	N.A.

