

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.182 of 2017

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1. Manaur Sah Son of late Hakik Sah Resident of Village-Souri, P.O.-Dihri, P.S.-
Rajpur, District-Buxar

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna
2. The Chief Engineer (Mechanical), Public Health Engineering Department, Bihar, Patna
3. The Executive Engineer, Public Health Division, Sasaram
4. The Assistant Engineer, Public Health Sub-Division, Sasaram

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Siddharth Harsh, Adv.

For the Respondent/s : Mr. S.Raza Ahmad-AAG5

Mr. Md. Anisul Haque, A.C. to AAG 5

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 06-10-2017

Heard learned counsel for the parties.

With the consent of the parties the writ petition has been heard
with a view to final disposal.

The petitioner while praying for quashing of the letter bearing
Memo No. 1302 dated 24.8.2016 of the Executive Engineer, Public
Health Division, Sasaram whereby he was directed to produce
supportive evidence of his claim for treating his date of birth as
31.5.1965 in place of 31.5.1956 which was entered in service book
alongside, prays for direction to treat his date of birth as 31.5.1965



and also to enter the same in the service book. It is not in dispute that the petitioner was made to superannuate with effect from July, 2016 treating his date of birth as 31.5.1956.

The short facts leading to the writ petition is that the petitioner was initially engaged in the year 1981 as a Khalasi and was brought to the work charge establishment with effect from 15.03.1988. The petitioner was absorbed in the regular establishment in the year 2006 and his service book was opened, a copy of which has been placed on record vide Annexure-A to the counter affidavit and which records his date of birth as 31.5.1956. The signature of the petitioner is noticeable at the bottom of the service book. The service book was opened some time in the year 1991 and since then until raising of the claim by the petitioner in the year 2016 when he filed an application on 20.08.2016 seeking alteration in his date of birth, no attempt was made by him. There is nothing on record of the proceedings either to show whether any evidence supporting his claim of date of birth as 31.5.1965 was ever placed before the respondent rather it is when a demand was made by the respondents from the petitioner to support his claim for alteration of his date of birth that he produced a School Leaving Certificate which was issued on 23.09.2003, a copy of which is placed at Annexure-D. A copy of the School Leaving Certificate was sent for verification by the Executive Engineer, Public Health Division to the



Principal of the School vide memo No. 45 dated 12.01.2017 vide Annexure-E. The response of the Principal is present at Annexure-G and he has raised doubts over the signature present in the School Leaving Certificate which according to the Principal, did not tally with the records. It is obvious that in view of such disputed nature of evidence supporting the claim of the petitioner seeking alteration in his date of birth that the respondents decided to go by the entry made in the service book and chose to superannuate him in July, 2016 on reaching age of 60 years.

The argument of Mr. Harsh learned counsel for the petitioner is two fold namely:

- (a) The certificate produced by him at Annexure-D is genuine; and
- (b) If at all there was a doubt in the mind of the respondent they should have subjected the petitioner to a medical assessment on age.

Learned counsel during his argument had also relied upon the documents enclosed with the writ petition to submit that all along the respondents did accept the date of birth as 31.5.1965.

The arguments has been contested by the State counsel in reference to the response of the Principal on the verification of the School Leaving Certificate which is the sole foundation for the claim



of the petitioner present at Annexure-G to submit that where the veracity of the documents itself was put under cloud, the petitioner could not have been granted the benefit especially where he never chose to seek an alteration since after his absorption in 1988 until date.

I have heard learned counsel for the parties and I have perused the records.

There are at least at three stages of the service career which would have required the petitioner to support his date of birth for entry in Government service and that is:

- (a) In 1981 when the petitioner was initially engaged as casual labour,
- (b) In 1988 when he was brought into the work charge establishment; and
- (c) In 2006 when he was absorbed in regular service.

The certificate so relied upon by Mr. Harsh in support of the date of birth, was issued in the year 2003 and which mentions that the petitioner took admission in the year 1972 and left the school in 1976. In my opinion if this academic period, is the only certification of his date of birth, the petitioner should have been in possession of such certification from the Principal at the time of his initial entry as a casual labour in 1981 or when he was brought into the work charge



establishment in 1988 or at least, should have produced when he was absorbed in regular service in 2006. According to the petitioner himself, this certificate was issued in the year 2003 but he never produced it before the authorities rather put his initials in the service book which mentions his date of birth as 31.05.1956. The argument advanced by Mr. Harsh learned counsel for the petitioner does not have documentary support. Even if the date of birth of the petitioner entered in the documents placed at Annexures-2 to 5 reads as 31.5.1965, in my opinion unless it is resting on sound foundations, it cannot lend support to the claim. On the other hand where the very veracity of the School Leaving Certificate vide Annexure D is put under cloud with no other document on record to support the claim of the petitioner on his date of birth, the petitioner having signed the service book in the year 1991 with the date of birth having been entered not only in figures but also in words in Hindi language, he cannot be permitted to turn around to seek a rectification thereof after such long lapse of 25 years.

Finding no reasons to grant indulgence to the prayer made herein, the writ petition is disposed of with liberty to the petitioner to raise his claim for post retiral benefits if any, to which he may be found entitled and which request may be considered by the authority concerned and be disposed of in accordance with law within a period



of six weeks from the date of filing of any such representation.

Let records produced by Mr. Md. Anishul Haque, A.C. to AAG
5 be returned to his custody.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	02.11.2017
Transmission Date	NA

