

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19006 of 2008

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Digpal Rai @ Dirpal Rai, S/o Late Sukhan Rai, Resident of Village-Mahadeva,
P.S.- Tariyani, P.O.- Jagdishpur, Kothia, District- Sheohar, presently working as
Chaukidar, P.S.-Tariyani (Bit no.9/8) District- Sheohar.

.... Petitioner

Versus

1. The State of Bihar through its Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The District Magistrate, Sheohar.
3. The Superintendent of Police, Sheohar.
4. The Sub-Divisional Officer, Sub-Division, Sheohar.
5. The Sub-Divisional Officer, Belsand, District- Sitamarhi.
6. The Deputy Superintendent of Police, Sub-Division, Sheohar.
7. The Officer Incharge, Police Station, Tariyani, District- Sheohar.
8. The Block Development Officer, Block-Tariyani, District- Sheohar.

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Kumod Kr. Shrivastaw, Advocate
For the State : Mrs. Binita Singh, S.C.-28
Mr. Vivek Anand Amritesh, A.C. to S.C.28

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 23-01-2018

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

2. In the present case, the petitioner has sought relief of rectification of his date of birth from 06.11.1949 to 27.08.1954 as per the report of the Medical Board dated 27.08.1993.



3. The petitioner has entered into the service of Chaukidar, was posted at Police Station, Belsand on 09.09.1982. He was transferred to the Police Station, Tariyani in the district of Sheohar in the year 2001. As per the petitioner, he is illiterate and there was no any instruction on the basis of which the date of birth could be recorded in the service book and as such he was sent to face the medical Board on 27.08.1993, where the age of the petitioner was recorded as 39 years. The service book of the petitioner was opened on 06.02.1997, in which the date of birth has been recorded as 06.11.1949 arbitrarily. The petitioner submitted representation to the Sub-Divisional Officer, Belsand for correction of his date of birth, who has given assurance but has not corrected his date of birth. Whereafter, after creation of new district he was transferred to Tariyani Police Station from Belsand Police Station, where he has also submitted representation for correction of date of birth but no one paid any heed and the respondents are sitting tight over the matter.

4. Supplementary Counter affidavit has been filed, wherein in paragraph nos. 6 and 7 it has been stated that the date of birth of the petitioner was recorded in the service book as 06.11.1949 on the basis of the statement made by the petitioner and



has been drawing the salary on the basis of said service book. Further stated that the certificate which was produced by the petitioner has no legal sanctity as he has obtained the same from one Dr. Jilley Ahmed privately, who was posted in the said office during the period. It will be relevant to quote paragraph nos. 6 and 7 of the supplementary counter affidavit, which read as under:-

“6. That, it is stated and submitted that the service Book of the petitioner was opened by the S.D.O., Belsand in which the petitioner himself got entered his date of birth 06.11.1949. The petitioner was withdrawing his salary on the basis of said date of birth mentioned in service book without any objection since joining the service. The petitioner never produced any medical Board Certificate in proof of his date of birth before the authorities concerned. Subsequently he filed objection on 15.04.1997 only with a view to get illegal gain.

7. That it is stated and submitted that the petitioner filed a petition dated 15.04.1997 before the S.D.O., Belsand alleging therein that he has filed photo copy of the medical report with respect to his date of birth along with application which his age was fixed 39 years on 27.08.1993 because his date of birth should be noted as 27.08.1954 but his date of birth is noted as 06.11.1949 in service book without any basis. It was also alleged that he was illiterate and he had



not any school leaving certificate in the said petition. In this regard the S.D.O., Belsand called for verification report of the said medical Certificate from the Civil Surgeon, Sitamarhi, vide the letter No.115/Go dated 05.06.2009. The Civil Surgeon, Sitamarhi, called for a report from District Leprosy Officer, Sitamarhi, reported that the said medical certificate with respect to the age of the petitioner was not issued from his office. It was also informed that the said medical certificate was issued by one doctor namely Jilley Ahmad privately who was posted in the said office since December, 1989 to April 1994. The said fact has been informed by the S.D.O., Belsand vide his letter No.474 dated 24.07.2009 to the Circle Officer, Tariyani.”

5. Learned counsel for the petitioner submits that the petitioner is illiterate, wrongly his date of birth has been recorded. But, the question, in the present case, is that the basis of the claim of the petitioner that his age was 39 years as on the date of his examination by the Medical Board, has no legal sanctity on account of fact, that it has not been issued by the office of the Civil Surgeon, he has obtained the same privately from Dr. Jilley Ahmad, cannot be the basis for correction of his date of birth. Had there been proper constitution of Medical Board as per the direction of the Government, it might have carries some legal weight and that too it



appears that it is a defective medical certificate as no science has developed to give the perfect date of birth of a person, always the age is verified on ossification test giving probable age of the person. At the same time, the petitioner had continued to discharge the duty and at the fag end of his carrier, the claim for rectification of date of birth has been made, which is unsustainable and cannot be taken into consideration that too on the basis of certificate, which was not officially issued from the office of the Civil Surgeon, but issued from one Dr. Jilley Ahmad, privately.

6. In such view of the matter, this Court does not find any merit in this writ petition. Accordingly, this writ petition is dismissed.

(Shivaji Pandey, J)

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AFR/NAFR	N.A.F.R.
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