

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.430 of 2017**

**IN**

**Civil Writ Jurisdiction Case No. 15256 of 2013**

- =====
1. The State of Bihar through the Chief Secretary, Old Secretariat, Patna
  2. Secretary, Building Construction Department, Govt. of Bihar, Patna
  3. Deputy Secretary Building Construction Department, Govt. of Bihar, Patna
  4. Superintending Engineer, Building Construction Department, Bhawan Division, Khagaria
  5. Executive Engineer, Building Construction Department, Bhawan Division, Khagaria

.... .... Appellant/s

Versus

1. Pancham Rai, Son of Ram Bhawan Rai, resident of Anandpur, P.S. Bihta, Distt. - Patna
2. Jawahar Choudhary, Son of Sri Bachu Choudhary, Resident of village - Mathura, P.S. Tarapur, Distt. - Munger

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Anil Kr Singh No. 6, Advocate

For the Respondent/s : Mr.

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date: 02-02-2018**

Delay of 54 days in filing of the appeal is condoned and  
I.A. No.1620 of 2017 is allowed and disposed of.

Seeking exception to an order dated 24.11.2016 passed by  
the learned Writ Court in C.W.J.C. No.15256 of 2013, this appeal has  
been filed under Clause 10 of the Letters Patent.

At the time of regularization of service, petitioner was  
subjected to Medical Board and in the report submitted by the  
Medical Board on 28.7.2008, the age was specified as between 55 to  
60 years as on 28.7.1980. The Department took the age on 28.7.1980



as 55 years and recorded the same in the service book. Petitioner seems to have represented and thereafter approached the learned Writ Court. The learned Writ Court finding that assessment of age has not been properly done and the fixation of age between 55 to 60 years is not in accordance to the requirement of law, directed for re-constitution of a Medical Board for assessment of the age of the appellant and, we are informed today that, based on the order passed in the writ petition, the Medical Board has assessed his age and recorded a finding.

Keeping in view the fact that the age recorded by the Medical Board on 28<sup>th</sup> of August, 2008 does not meet the requirement of law and the learned Writ Court having exercised its discretion based on sound consideration, we see no error now warranting re-consideration, particularly now after the fresh Medical Board has submitted its report.

The appeal is, accordingly, dismissed.

**(Rajendra Menon, CJ)**

**(Anil Kumar Upadhyay, J)**

K.C.jha/-

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