

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.19880 of 2011**

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Shiva Yadav Son Of Late Kishun Chand Yadav Resident Of Village -  
Nizamuddinpur, P.S. & District Jehanabad

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary-Cum-Commissioner, Home Department, Patna
3. The Director General Of Police (HOME Guard), Patna
4. The District Magistrate, Jehanabad
5. The Superintendent Of Police, Jehanabad
6. The Additional Collector (Naxal), Jehanabad
7. The Sub-Divisional Officer, Jehanabad
8. The Civil Surgeon-Cum-Chief Medical Officer, Jehanabad
9. The Circle Officer, Jehanabad

... .. Respondent/s

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**Appearance :**

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|----------------------|---|------------------------------|
| For the Petitioner/s | : | Mr. Sunil Kumar<br>Advocate  |
| For the Respondent/s | : | Mr. Rajendra Kr. Jha<br>GP18 |

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**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**  
**ORAL JUDGMENT**

**Date : 26-11-2018**

Heard the learned counsel for the petitioner and  
learned counsel appearing on behalf of the State.

The petitioner has challenged the order dated  
15.09.2011 passed by the District Magistrate, Jehanabad,  
whereby his date of birth has been fixed at 42 years on  
21.03.1990 on the basis of the medical report submitted by  
the first Medical Board constituted for the purpose.



It may be noted here that with respect to the date of birth of the petitioner, who was appointed as a Chaukidar on 02.09.1977, there was some dispute. At the time of appointment, the Civil Surgeon had estimated his age and his date of birth was fixed at 21.03.1948, which was the date mentioned in his service-book.

Later, a Medical Board was constituted by the order of the Additional Collector, Jehanabad and apart from the petitioner, many other Chaukidars were also subjected to the medical test for assessing their age / date of birth.

According to the opinion of Medical Board, the age of the petitioner was estimated to be 47 years on 31.08.2001. However, this report was never made effective and such estimate was not entered in the service-book of the petitioner but was entered in the service-book of other Chaukidars as has been argued by the petitioner.

The District Magistrate at that time was of the view that there was no requirement for constitution of any Medical Board and once the date of birth was entered in the service-book, there was no occasion to change the same.



Aggrieved by this opinion of the District Magistrate, the petitioner approached this Court in C.W.J.C. No. 6878 of 2008, which was disposed off on 27.04.2011 with a direction to the District Magistrate to pass necessary orders after relying on the Medical Board which he was bound to accept. However, it was clarified that if in a particular case, if the physical appearance and the age recorded by the Medical Board did not match or not found to be in consonance with the estimate made by the Board, it would be open for the District Magistrate concerned to pass appropriate orders in such cases.

With the aforesaid direction, the case was remanded to the District Magistrate, Jehanabad to take a decision with respect to the petitioner. It was also directed that the constitution of the Medical Board be also seen to ascertain that the Board has been duly constituted and the Members of the Board were qualified for the purpose for which the Board was constituted. A decision was required to be taken thereafter. Pursuant to the aforesaid direction, a larger Medical Board was constituted and the petitioner was asked to furnish X-ray report and other documents, on which any scientific analysis



for determining the age of the petitioner could be done. The report of the Medical Board indicates that the petitioner refused to furnish the documents which were asked from him and came out of the hall where the Medical Board was dispensing with its job.

Per force, the Members of the Board accepted the first medical certificate regarding the age by the Civil Surgeon at that time which recorded his age as 42 years on 21.03.1990. Taking this age into account, the petitioner was made to superannuate in the year 2008.

Learned counsel for the petitioner has raised grievance that the complaint of the petitioner that the Medical Board was biased and that it towed the direction of the District Magistrate, was not taken into account. But for a solitary application made by the petitioner before the District Magistrate regarding such complaint, there is no other document to suggest that the petitioner ever pursued the aforesaid complaint.

Considering the fact that the petitioner has superannuated in the year 2008, taking his age as assessed by



the Civil Surgeon (age of 42 years on 21.03.1990) and that no good ground has been made out by the learned counsel for the petitioner for any interference with the assessment of age of the petitioner, this Court is of the view that it is too late in the day for the petitioner to agitate that his date of birth was wrongly recorded, more so when the petitioner came out from the room where the Medical Board was performing its task of assessing the age of the petitioner.

The writ petition is devoid of any merit and it is therefore dismissed.

**(Ashutosh Kumar, J)**

skm/-

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