

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15006 of 2010

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1. Pachkauri Yadav S/O Late Nathuni Yadav R/O Vill Ghuskipatti, P.S.Khajauli,
Distt-Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Home Department Government Of Bihar, Patna
3. The Director General Of Police Bihar, Patna
4. Director General Of Hoem Guard Police Patna
5. Inspector General Of Police Darbhanga Range, Darbhanga
6. Deputy Inspector General Of Police Darbhanga Range, Darbhanga
7. District Magistrate Madhubani
8. Sub Divisional Magistrate Madhubani
9. Superintendent Of Police Madhubani
10. Circle Officer Khajauli, Distt-Madhubani
11. S.H.O. Khajauli, P.S.Madhubani, Distt-Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav

For the Respondent/s : Mr. Santosh Chandra Bhaskar, AC to GP-11

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 16-05-2018

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

In the present case, the petitioner has made a prayer that
his date of birth should be treated as 24.02.1951 and
accordingly he should have been allowed to continue to the post
of Chaukidar and also made a prayer consequential benefits.

The petitioner had joined on the post of Chaukidar under
the Police Station Khajauli on 23.02.1981 and was receiving the
salary regularly. Under the policy decision of State



Government, all Chaukidars working in different Police Station in the State of Bihar were regularized and treated to be Government employee vide letter no.359 dated 17.11.1990 and accordingly he was appointed subsequently to the post of Chaukidar and became the employee of the State Government. He has placed reliance with respect to his date of birth is the School Leaving Certificate, wherein the date of birth has been recorded as 24.02.1951 and accordingly his date of birth was recorded in his service book.

And all on a sudden dispute arose about the date of birth on that account he was asked vide memo number 164 dated 05.05.2009 to produce corroborative documents relating to his date of birth and on receipt of the same, he has produced the School Leaving Certificate issued by Rajkeiya Madhya Vidyalaya, Kewalpatti and the Verification Report issued by Sub-Divisional Officer, Sadar, Madhubani vide memo no. 228 dated 03.06.1992 without considering the document produced by the petitioner salary of the petitioner was stopped vide letter no. 353 dated 24.07.2009 and accordingly vide memo no. 953 dated 11.08.2009 the Sub-Divisional Officer has informed about this decision to the Circle Officer, Khajauli by the aforesaid letter.



The In-charge Deputy Collector General vide memo no. 1624 dated 06.10.2009 has doubted the correctness of document for verification of the date of birth of the petitioner and directed to produce all the relevant documents with respect to date of birth before the Collector whereafter the petitioner filed the detailed explanation claiming to release the payment which the petitioner is entitled.

From the records it appears that as the entry of the date of birth of petitioner was doubted, he was asked to appear before the Medical Board and the Medical Board consisting of four doctors assessed the age of the petitioner in between 60 to 65 years, submitted the report dated 2.3.2010 (Annexure A of the counter affidavit) and accordingly his date of birth was fixed 60 years as on 2.3.2010.

Learned counsel for the petitioner has placed reliance on the order passed by this Court in CWJC No. 4174 of 2007 having claimed identical facts stated that date of birth in the service book would be basis for his superannuation any subsequent assessment of his age by the Medical Board has no value in the eye of the law.

In the present case the petitioner was appointed in the year 1990 and date of birth as recorded in the School Leaving



Certificate showing that he had passed 5th class examination is the basis for claiming to be the date of birth as on 24.02.1951. It is clear that the date of birth recorded in the School Leaving Certificate does not carry any weight but had there been a date of birth recorded in matriculation certificate could be said to be a date of birth of the employee and date of birth recorded on the basis of School Leaving Certificate of 5th class which has been issued on 12.09.1991 where his date of birth was recorded as 24.02.1951 and he had left the school on 31.12.1964. The date of birth recorded in School Leaving Certificate, does not inspire confidence.

In such circumstances, asking the petitioner to appear before the Medical Board for assessment of age which cannot be said to be an illegal exercise of power of ascertaining the correct age or date of birth of the petitioner.

This Court does not find any wrong in ascertaining the age of the petitioner and action taken on the basis of the said Medical report cannot be said to be illegal and this Court does not find any merit in this writ petition.

If so like, the petitioner may move before civil court and file proper suit for declaration of his date of birth. If any suit is filed the court below while dealing with the issue of



limitation will consider the pendency of this case before this Court.

With the aforesaid observation this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	8.6.2018
Transmission Date	NA

