

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.556 of 2018

In
Civil Writ Jurisdiction Case No.5240 of 2017

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Bhaglu Yadav, Son of Bishun Yadav, Resident of Village- Prasadi English,
P.S. + Anchal- Arwal, District- Arwal. Appellant

Versus

1. The State of Bihar through Principal Secretary, Home Dept. Govt. of Bihar, Patna.
2. The Principal Secretary Home Dept. Govt. of Bihar, Patna.
3. The District Magistrate, Arwal, District- Arwal.
4. The Superintendent of Police, Arwal, District- Arwal.
5. The Anchaladhikari, Arwal, District- Arwal.
6. The Provident Fund Officer, District- Arwal.
7. The Accountant General, Bihar, Patna.

... .. Respondents

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Appearance :

For the Appellant/s	:	Mr. Sharda Nand Mishra, Advocate
For the Respondent/s	:	Mr. Suman Kumar Jha, AC to AAG 3
For Respondent no. 7	:	Mr. Raghwanand, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 10-07-2018

Interlocutory Application No. 4626 of 2018 has been filed for condonation of delay of 95 days in filing of the present Letters Patent Appeal.

2. The delay is condoned. Accordingly, I. A. No. 4626 of 2018 stands allowed.

3. Challenge in the present Letters Patent Appeal is to the judgment dated 11.12.2017 passed in Civil Writ Jurisdiction Case No. 5240 of 2017 by which the learned Writ Court has refused to accept the claim of the petitioner for full pensionary



benefits during his service till 31.08.2016. The learned Writ Court has found that the date of birth of the petitioner has been written in the official records as 11.10.1950 which was never objected by the petitioner and therefore, he cannot be allowed to claim that by virtue of the assessment of his age by the subsequent Medical Board which was constituted for a different reason and not for ascertaining the date of birth, he would be entitled to continue till 31.08.2016.

4. Learned counsel representing the petitioner-appellant has even though tried to argue that on the face of the Medical Board report wherein it is opined that as on 20.08.1989 the petitioner was aged about 33 years, he would be required to superannuate on 31.08.2011, could not controvert the finding of the learned Writ Court that the date of birth of the petitioner is clearly recorded as 11.10.1950 in his service book and the same was within the knowledge of the petitioner.

5. Learned counsel for the State has opposed the submission of the learned counsel for the appellant stating that what has been held by the learned Writ Court is absolutely correct and the petitioner cannot be allowed to raise a dispute at this stage when he had himself never questioned his age recorded in the service book.



6. Having gone through the rival submissions and the materials available on the record, we find no reason to interfere with the impugned judgment. In the admitted facts of the case when date of birth is clearly recorded in the service book and the petitioner never objected to the same, we cannot allow him to dispute his date of birth on the basis of a report of the Medical Board which was constituted only to ascertain as to whether a person was above the age of 50 years.

7. This Letters Patent Appeal has no merit. It is accordingly, dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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