

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3609 of 2013

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1. Ram Pravesh Singh Son Of Late Ram Parikshan Singh Resident Of
Village - Choukhoda, P.S. Aurangabad Mufassil And District - Aurangabad

.... Petitioner/s

Versus

1. The Principal, Jawahar Lal Nehru College, Dehri-On-Sone, Rohtas
2. The State Of Bihar Through The Principal Secretary, Department Of
Human Resources, Patna (Bihar)
3. The Vice Chancellor, Veer Juer Singh University, Arrah
4. The Registrar, Veer Kuer Singh University, Arrah

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Verma
Mr. Sunil Kumar Singh, Adv
For the Respondent/s : Mr. Vinay Kriti Singh Sc5
For the University : Mr. Rajesh Prasad Choudhary, Adv

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

7 28-08-2018 Heard the learned counsel for the petitioner and counsel
appearing on behalf of the State as well as University.

Pursuant to the order dated 26.07.2018, Mr. Rajesh Prasad Choudhary, learned counsel appearing on behalf of the university has produced the original service book. The service book indicate that service book was opened on 12.08.1995 on the open eye, it is apparent that the entry in the column-6, i.e., date of birth was made in different handwriting and different ink.

Learned counsel appearing on behalf of the petitioner has submitted that up to 1998, there was no entry as the date of birth in the service book as per the letter of Principal of the college



was blank. Thereafter the petitioner was subjected to Medical Board for ascertaining his age. Learned counsel for the petitioner placed reliance on Annexure-9. The report of the Medical Board dated 21.09.1998 which reflects that the Medical Board on the basis of scientific analysis of x-ray, skull and assessment of the bones of the body of the petitioner assessed the age as about 43 years on 21.09.1998 which corresponds the year of birth as 1955.

In the matter of the determination of age normally matriculation certificate are taken as substantive material for the determination or in the absence of matriculation certificate, age can be ascertained with reference to horoscope and other contemporaneous material and scientific test like report of Medical Board. The Medical Board's reports are authentic for the purpose of determination of age subject to variance of (+) & (-) two years. On the basis of aforesaid, one can ascertain the age either date of birth either in the year 1953 or 1957. If 1955 is not taken as the exact year of birth as per assessment of the Medical Board. It is to be seen that this controversy as to date of birth has arisen on account of the fact that the letter of the Principal in the year 1998 indicates that when the service book was opened, the date of birth column was blank. From perusal of the original



service book, it appears that the letter of the Principal was substantially correct on the point that up to the letter sent by the Principal, there was no entry as entries were made in the service book as 12.09.1995 but on that date, the date of birth was not mentioned in the service book otherwise there was no occasion for entry in different pen and different hand-writing.

In the peculiar facts and circumstances of the case, the original service book on the face of it, does not inspire confidence as to the entry in the service book about the date of birth, the Court has to refer to report of the Medical Board for determination of date of birth. From the report of the Medical Board (Annexure-9), the petitioner's date of birth can be ascertained in between 1953 to 1957 as discussed above. Taking the totalities of the facts situation, the Court is of the view that the balancing the equity of the situation, the court accept the report of the Medical Board with variance of two years on the higher side, the age of the year of birth of the petitioner should be taken as 1953 and the respondents are in the peculiar facts of the case are directed to treat the date of birth instead of 01.07.1950 to 01.07.1953 and grant the consequential benefits of the age of superannuation treating the date of birth of the petitioner as 01.07.1953 and allow the petitioner to continue up to 62 years from 01.07.1953 and grant all



the consequential benefits since the petitioner was forced to superannuate in the year 2012 treating his date of birth as 01.07.1950. The respondents are directed to modify the age of superannuation of the petitioner instead of 01.07.2012 to treat the age of superannuation as 01.07.2015 on the basis of the Medical Board report as contained in Annexure-9 taking date of birth as on 01.07.1953, the entire consequential benefit on the basis of treating the date of birth of petitioner as 01.7.1953 shall be worked out the by the respondents within a time frame of four months from the date of receipt / production of a copy of this order. The original service book produced by Mr. Chudhary is returned for the use of the University.

With the aforesaid observation and direction, this writ application is allowed.

(Anil Kumar Upadhyay, J)

Sanjeev/Ranjeet

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