

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.809 of 2017

In

Civil Writ Jurisdiction Case No.9136 of 2008

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Choudhary Thakur, Son of Buchan Thakur, Resident of Village Gangapur,
Post Office Pandaul, Police Station Pandaul, District Madhubani at Present
residing at Kalhua Pagamberpur at Muzaffarpur, Post Office and Police
Station Muzaffarpur, District Muzaffarpur.

... .. Appellant/s

Versus

1. The State of Bihar through the Secretary to the Government of the Department of Science and Technology, Technology Bhawan, Bisheshwaraiya Bhawan Campus, Bailey Road, Patna.
2. The Joint Secretary to Government, Science and Technology Department, Government of Bihar, Technology Bhawan, Bisheshwaraiya Bhawan Campus, Bailey Road, Patna.
3. The Director, Science and Technology Bhawan, Bisheshwaraiya Bhawan Campus, Bailey Road, Patna.
4. The Principal, Muzaffarpur Institute of Technology, Muzaffarpur at Muzaffarpur District Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Lalan Kumar Singh

For the Respondent/s : Mr. Pushkar Narain Shahi-AAG-6

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 13-04-2018

Heard counsel for the appellant and counsel for the State.

The present appeal has been preferred against the order of the learned Single Judge dated 06.04.2017, passed in C.W.J.C. No. 9136 of 2008 wherein the learned Single Judge allowed the writ application by giving monetary benefit to the appellant instead of notional benefit by virtue of promotion which was



granted to him. The learned Single Judge also directed payment of consequential benefits in relation to the retiral dues. This part of the order is not the subject-matter of challenge.

Since the learned Single Judge refused to pass any order in favour of the appellant extending his age of superannuation, therefore, the appeal is directed against that part of the order where prayer was for setting aside refusal of the relief and a direction to treat the appellant to have superannuated in the year 2002 instead of 2000.

This Court can very well appreciate as to why the learned Single Judge refused the prayer for the reason that way back in the year 2000 itself, the appellant had superannuated on reaching the age of 58 years since he was an employee of M.I.T., Muzaffarpur for whom the date of superannuation was fixed at 58. The argument made now is that since promotion has been granted on the post of Workshop Superintendent it becomes a teaching post, and, therefore, the age of superannuation should be enhanced to 60 years even though this benefit was granted much later after superannuation and that too notionally.

Since the promotion was subsequently granted and the writ application in this regard was filed only in the year 2008, therefore, the appellant's argument that he had enhanced age of



superannuation now is totally unwanted besides still a question of argument whether by virtue of that promotion, his age of superannuation should be enhanced at all.

The Court is not inclined to interfere with the order of the learned Single Judge. Appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	NAFR
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