

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6449 of 2015

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Raj Shailesh s/o Ram Sakal Rai Son of Late Butan Rai resident of Village -
Hasilpur, P.O. P.S. - Nayagaon, District - Saran
... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Department of Home,
Government of Bihar, Patna
2. The Commissioner, Saran at Chapra.
3. The Collector , Saran at Chapra.
4. The Sub-Divisional Officer, Sonapur, Saran.
5. The Circle Officer, Sonapur, Saran Respondents

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Appearance :

For the Petitioner	:	Mr. Alok Kr. Sinha, Senior Advocate and Mr. Shatrughan Pandey, Advocate
For the State	:	Mr. M. Haque, GP 12 Mr. Vasant Vikas, AC to GP 12

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 02-04-2019 I.A.No.3279 of 2018 has been filed by the son (Raj
Shailesh) of the original petitioner Ram Sakal Rai.

It is submitted that in view of death of original writ
petitioner on 31.10.2017, his legal heir (son) Raj Shailesh
mentioned in the Interlocutory Application be substituted in
place of the original writ petitioner.

Let the son of the original writ petitioner be
substituted in place of his father, i.e., the original writ petitioner
as per details mentioned in paragraph 3 I of the Interlocutory
Application.

Heard learned senior counsel for the petitioner as well
as learned counsel appearing for the respondent State.

It is submitted on behalf of the petitioner that the



original writ petitioner has wrongly been made to retire from the post of Dafadar with effect from 12.8.1999. Learned senior counsel submits that in view of determination of age by Annexure 1 dated 17.8.1996, the petitioner therefore should be considered to have retired on 31.8.2001 in stead of 12.8.1999. He submits that if such relief is granted, he would not raise any claim other than counting of his length of service.

Respondents have filed counter affidavit. It is their specific case that the original petitioner was appointed as Chaukidar in 1972, i.e. 22.7.1972. When the service book of the petitioner was opened, the date of birth was entered as 12.8.1941 as per age determination certificate granted by the Medical Board dated 12.8.1992. As per the said determination of the birth of the petitioner, he was made to retire with effect from from 12.8.1999. A copy of service book is also annexed. From the same it is evident that the averments made in the counter affidavit are correct. Having been made to retire in 1999, records reveal that the petitioner had filed a title suit disputing the determination of his date of birth. The same was thereafter withdrawn on 2.8.2014. Having withdrawn the said title suit, writ petition has been filed in the year 2015.

Learned senior counsel appearing for the petitioner in



support of his claim has placed reliance on Annexure 6. Annexure 6 is the order dated 3.4.2012, passed in the case of Ganesh Rai in the proceedings arising out of CWJC No. 4553 of 2012.

The same is based on the assertion of the petitioner that date of birth ascertained by a common Medical Board was not reliable. No such claim has been made by the petitioner.

In fact, the writ petition suffers from inordinate delay and laches inasmuch as determination of date of birth in the year 1992, is sought to be assailed by filing the writ petition in the year 2015 when the original petitioner had already attained superannuation on 12.8.1999 on basis of the said determination of date of birth.

The writ petition is therefore devoid of merit and also barred by delay and laches. Writ petition is accordingly dismissed.

(Madhuresh Prasad, J)

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