

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14088 of 2014

- 1.1. Smt. Prema Kuer, Wife of late Yogendra Raut, Resident of Mohalla- Jagjivan Nagar, P.S. Bettiah Town, District- West Champaran.
- 1.2. Anita Devi, Wife of Ranjeet Raut and D/o of late Yogendra Raut, Resident of Mohalla- Jagjivan Nagar, P.S. Bettiah Town, District- West Champaran.
- 1.3. Ginni Devi Wife of Ramchandra Raut, and D/o of late Yogendra Raut, Resident of Mohalla- Jagjivan Nagar, P.S. Bettiah Town, District- West Champaran.
- 1.4. Sunaina Devi, Wife of Anil Raut and D/o of late Yogendra Raut, Resident of Mohalla- Purani Bazar, Narkatiaganj, P.S. Shikarpur, District- West Champaran.
- 1.5. Sunil Raut, Son of late Yogendra Raut, Resident of Mohalla- Jagjivan Nagar, P.S. Bettiah Town, District- West Champaran.
- 1.6. Anil Raut, Son of late Yogendra Raut, Resident of Mohalla- Jagjivan Nagar, P.S. Bettiah Town, District- West Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Health Department, Bihar Patna
2. The District Magistrate, Bettiah, District West Champaran.
3. Civil Surgeon-Cum-Chief Medical Officer, Bettiah, West Champaran.
4. The Chairman, Nagar Parishad, Bettiah, District - West Champaran.
5. The Executive Officer, Nagar Parishad, Bettiah, District - West Champaran.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Sharad Kumar
For the Respondent/s	:	Mr. Ramadhar Singh, GP 25
		Mr. Anirudh Kumar Singh, AC to GP 25
For Nagar Parishad Bettiah:		Mr. Priyadharshi Matri Sharan

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 15-10-2019

The writ petition has been filed seeking quashing of a notice dated 4.7.2014 issued by the Executive Officer, Nagar Parishad, Bettiah directing petitioner's retirement upon attaining the age of 60 years.



The writ petition does not disclose any contemporaneous document on which the petitioner's date of birth can be determined.

The counter affidavit, which has been filed on behalf of respondent Nagar Parishad, has placed on record various affidavits filed by the petitioner claiming different age/date of birth which are self contradictory. The same does not tally with Prapatra 'Kha' wherein petitioner's date of birth in the records of the respondent Municipality is shown as 10.2.1963. The authorities have submitted that the order dated 4.7.2014, which is impugned by the petitioner, was issued in respect of his elder brother who was also an employee of the respondent Municipality. Both brothers were admittedly having the same name (Yogendra Raut) as is apparent from Annexure 'D' i.e. application made by the petitioner before the Executive Officer of the Municipality. The order dated 4.7.2014 recorded "Safai Karmchhari" below the name of Yogendra Raut. Since the petitioner was a Safai Karmchhari and his elder brother a Tractor Kooli, confusion seems to have been caused due to mentioning of Safai Karmchhari in place of Tractor Kooli. The impugned order dated 4.7.2014, as per the case of the respondent authorities, was issued in respect of petitioner's brother having same name but who was working as a Tractor Kuli.

In view of such unwanted confusion being created by the authorities due to inadvertent mentioning of wrong designation below the name of the addressee in the order dated 4.7.2014 the petitioner was compelled to approach this Court.



The issue therefore does not require any interference as the respondents admitted that the order dated 4.7.2014 was not issued in respect of the petitioner.

The question therefore remains as to what would be retirement age of the petitioner as per records of the respondent Municipality since the petitioner is not in a position to give his date of birth on the basis of any contemporaneous document. This aspect also does not require any adjudication in the instant proceeding. The petitioner in his writ petition has claimed that he is to retire in January 2016 placing reliance on the medical certificate (Annexure 2) issued by the Civil Surgeon cum Chief Medical Officer, West Champaran which is dated 10.11.1991.

Counsel for the respondent Municipality submits that this appears to be the only document issued by a competent authority supporting the petitioner's claim to continue in service till January 2016. The entry in Prapatra 'Kha' therefore as per submission of Counsel for the respondent Municipality which was not based on any age determination or valid document/certificate of age cannot be relied upon since age of the petitioner was determined at the time of his initial appointment in the year 1991 as per Annexure 2. It is this determination done by Civil Surgeon cum Chief Medical Officer, West Champaran which is being relied upon by the petitioner also.

In view of the aforesaid admitted position, this court would only hold that the petitioner was entitled to continue in service till



January 2016. The petitioner however has passed away in the meantime and the wife/legal heirs of the petitioner are now pursuing the instant proceeding. It is therefore directed that the petitioner be treated as having died in harness on 11.3.2016. The consequential benefits available to an employee in the Municipality till death of the petitioner and as a consequence of death in harness should therefore be extended to the instant petitioners by the respondent Municipality.

Writ petition is disposed of with the aforesaid directions.

(Madhuresh Prasad, J)

SNkumar/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16.10.2019
Transmission Date	N/A

