

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24659 of 2019

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Awadhesh Shukla, Son of Late Daroga Shukla, Resident of Bhatha Sonho,
Post Office- Bhatha Sonho, Police Station- Amnour, District- Saran (Chapra).
... .. Petitioner/s

Versus

1. The State of Bihar through Home Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Director General cum Inspector General of Police, Bihar, Old Secretariat, Patna.
3. The Inspector General of Police, Wireless, Bihar, Patna.
4. The Assistant Inspector General of Police, Wireless, Bihar, Patna.
5. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar Tiwary, Advocate
For the Respondent/s : Mr.Sheo Shankar Prasad (SC-8)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 22-06-2020 Heard learned counsel for the petitioner and the

State.

The petitioner is aggrieved by the office order No. 887 of 2019 dated 24.10.2018 as contained in Memo No. 1943 by which the respondents have forfeited 100% pension of the petitioner in purported exercise of power under Rule 43B of the Bihar Pension Rules.

Learned counsel for the petitioner submits that the action of the respondents in forfeiting 100% pension of the petitioner is after eleven years of retirement. The background in which the order was passed is indicated hereinafter. The petitioner was appointed as constable in 1967. he was granted



promotion from literate constable to ASI in 1976. on 7.6.2004 the petitioner was asked to explain the difference of date of birth recorded in the verification roll and in the Service Book. The petitioner submitted his explanation stating that the difference is on account of entry in the service book and the entry made in the matriculation certificate. As per the matriculation certificate the date of birth of the petitioner is 5.4.1950.

Learned counsel for the petitioner submits that taking the aforesaid date of birth into account, the petitioner has been made to retire but after retirement the respondents have proceeded against and now they have decided to forfeit 100% pension of the petitioner.

On behalf of the respondents stand has been taken that petitioner has procured appointment suppressing the correct facts and his matriculation certificate. As per the matriculation certificate his date of birth is 05.04.1950 but on the basis of distorted birth certificate he got entry in service on 30.03.1967. The stand of the respondents is that on the date of appointment, the petitioner was below 18 years, and as such, he procured appointment by practicing fraud.

There is no allegation that during his service, the petitioner has committed any forgery or any misconduct. It is



only on account of entry of date of birth in the service book, the respondents have decided to forfeit 100% pension in purported exercise of power under Rule 43B of the Bihar Pension Rules.

Considering the fact that the petitioner has not committed any forgery or misconduct during service period and he was granted promotion, the Court is of the view that the punishment of forfeiture of 100% pension is grossly disproportionate. Accordingly, office order No. 887 of 2019 dated 24.10.2018 as contained in Memo No. 1943, Annexure-4 is hereby quashed. Respondents are directed to take fresh decision on the quantum of punishment as forfeiture of 100% pension is grossly disproportionate to the charge levelled. Necessary decision with regard to quantum of punishment in purported exercise of power under Rule 43B of the Bihar Pension Rules must be taken by the respondents within a maximum period of three months from the date of receipt/production of a copy of this order.

The writ petition is allowed in the manner indicated above.

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(Anil Kumar Upadhyay, J)

