

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2796 of 2020

Dev Ranjan Kumar, Son of Late Ram Charitra Prasad, aged about 58 years, Gender-Male, Resident of Village-Lakhisarai, P.O.-Malathi via Tehta, P.S.-Ghosi, District-Jehanabad, presently posted as District Program Officer (Planning & Accounts), Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna-cum-Appellate Authority.
- 3.. The Director, Secondary Education, Education Department, Govt. of Bihar, Patna.
4. The Director (Administration)-cum-Additional Secretary, Education Department, Govt. of Bihar, Patna.
5. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna.
6. Bihar School Examination Board, through its Chairman.
7. The Secretary, Bihar School Examination Board.
8. Lee Academy, Forbesganj, Lee Academy Road, Araria-854318, through the Headmaster.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Nikhil Kumar Agrawal, Advocate
For the Respondent/s	:	Mr.Prabhakar Jha (GP 27)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 16-02-2022

This matter is heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 Pandemic.

In the instant petition, petitioner has prayed for the following relief(s):-

“(a) To issue an appropriate writ (s)/ order (s)/ direction(s) in the nature of Mandamus commanding the Respondents to correct the date of birth



of the Petitioner in the Gradation List published by the Respondents vide memo no. 1845 dated 07.10.2016(Anx-14) in light of the correction made by the Bihar School Examination Board;

(b). To issue appropriate writ(s)/ order (s)/ an direction(S) in the nature of Mandamus commanding the Respondents to consequently correct the date of birth of the Petitioner in the service book and other relevant service records;

(c) To any other relief (s) that the Petitioner is entitled to in the facts and circumstances of the case.”

Short question for consideration in the present petition is whether the petitioner is entitled for correction of his date of birth from 08.08.1961 to 05.11.1962 or not?

Undisputed facts are that petitioner joined service in the month of March, 1991. Learned counsel for the petitioner submitted that for correction of date of birth in the matriculation certificate petitioner submitted application before the Bihar School Examination Board in the year 1976 ultimately it was decided in the year 2016 and corrected date of birth in the matriculation certificate was issued in the year 2016 to the extent that it is 05.11.1962. In the guise of these facts and circumstances, petitioner has presented this petitioner.



The petitioner had a cause of action for correction of date of birth in the month of March, 1991. If there is any lapse of the Bihar School Examination Board in not rectifying the petitioner's date of birth in the matriculation certificate from the date of submission of application for correction in the year 1976 he had a cause of action till 1979 which is three years period.

On the other hand, he was awaiting for correction of matriculation certificate from 17.09.2016. Now, pursuant to correction of date of birth in the matriculation certificate in the year 2016 as 05.11.1962 instead of 08.08.1961 petitioner has presented this petition in the year 2020. It is to be noted that petitioner has sought for a direction to correct date of birth in the gradation list dated 07.10.2016 *vide* Memo Number 1845 and further for making necessary entry in the service book and other relevant service records. Petitioner is aged about 58 years as on the date of presentation of this petition. Hon'ble Apex Court time and again held that belatedly claim relating to rectification of date of birth cannot be entertained.

On the other hand, learned counsel for the petitioner submitted that the present petition is covered by a decision of the LPA Bench of this Court in LPA No. 84 of 2018 arising out of



CWJC No. 3034 of 2016 decided on 24.05.2018 has no application in view of the following three decisions of Hon'ble Apex Court:-

“(i) Union of India vs. Shashank Goswami reported in (2012) 11 SCC 307

(ii) Shreejith L. vs. Director of Education, Kerala reported in (2012) 7 SCC 248

(iii) Dhalla Ram vs. Union of India reported in (1997) 11 SCC 201.”

In the light of these facts and circumstances, the petitioner is not entitled to relief sought in the present petition even on the ground of delay and laches. Hence, the present petition stands dismissed.

At this juncture, learned counsel for the petitioner further submitted that the petitioner had a cause of action for correction of date of birth in the gradation list in the year 2016.

It is to be noted that date of birth shown in the list of gradation cannot be carried out for the reasons that date of birth is required to be recorded in the service record. That apart any rectification in the service record or gradation list or promotion it should be undertaken within a reasonable period of time of six months as held by the Hon'ble Apex Court in the case of **P.S. Sadasivaswamy vs. The State of Tamilnadu** reported in **(1975) 1 SCC 152**. Further, in the case of **Vijay Kumar Kaul v. Union of**



India reported in **(2012) 7 SCC 610**. Accordingly, the aforesaid submission stands rejected.

(P. B. Bajanthri, J)

Vikash/-

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

