

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9698 of 2020

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Kishori Sah Son of Mukhi Sah, residence of Village - Basaha, Ward no. 11,
P.S. Bajpatti, District - Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, State of Bihar at Patna.
2. The State of Bihar through Secretary of Home (Special) Department,
Government of Bihar, Patna.
3. The Director General cum Commandant General, of Home Guard, Bihar,
Patna.
4. The Divisional Commandant, Home Guard, Tirhut, Division, Muzaffarpur.
5. The District Magistrate, Sitamarhi.
6. The District Commandant, Home Guard, Sitamarhi.
7. The Inspector, Home Guard, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Mishra
For the Respondent/s : Mr. Suman Kumar Jha

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

Date : 07-01-2022

The matter is heard via video conferencing due to
circumstances prevailing on account of the COVID-19
pandemic.

2. In the instant petition, petitioner has prayed for
following reliefs:

“1. That this is an application on
behalf of the petitioner for issuance a
writ/writs, order/orders for commanding the
respondent authorities and directed to
respondents to disposed of application dated
23/03/2020 (Annexure- 3) which is pending
before the respondent no.-3, and further
directed to release retrial benefit as well as



compensate the financial loss amount to the petitioner because petitioner superannuated from service as a Home Guard constable, Sitamarhi, before superannuation age, and/or issuance any other writ/writs, order/orders, or direction which the petitioner is entitled as per rules and regulations.”

4. Short question for consideration in the present petition is whether petitioner is entitled to have his date of superannuation as 10.08.2017 or 10.08.2018. The petitioner intends to rectify the date of birth during fag end of his service and it is not permissible as held by the Apex Court time and again. The petitioner being a Home Guard Constable, he had earliest opportunity of rectification of date of birth as and when he joined service.

5. At this juncture, learned counsel for the petitioner submitted that similarly situated persons' date of birth has been rectified by the authorities. Illegal benefit granted to a person cannot be extended and there is no violation of Article 14 of the Constitution as held by the Apex Court in a recent decision ***Rajesh Pravinchandra Rajyaguru V. Gujarat Water Supply & Sewerage Board & Others*** reported in ***2021 SCC Online SC 1282***.

6. In the light of these facts and circumstances, petitioner has not made out a case. Hence, the instant petition



stands dismissed. If the petitioner’s retiral benefits have not been settled, the same shall be settled by the competent authority within a reasonable period of three months.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

