

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.959 of 2019
In
Civil Writ Jurisdiction Case No.6563 of 2015

1. The State of Bihar through the Principal Secretary, Water Resources Department, Sinchai Bhawan, Patna
2. The Chief Engineer Water Resources Department, Dehri, Dist-Rohtas
3. The Superintending Engineer Sone Canal Modernization Circle, Dehri
4. The Executive Engineer Sone Barrage Division, Indrapuri
5. The Medical Officer Sone Barrage Dispensary, Indrapuri

... .. Appellant/s

Versus

Jai Nath Tiwari Son of Late Basudeo Tiwari R/o Village-DudhmiDehri, P.S.-
Tilauthu, District-Rohtas

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Deepak Sahay Jamuar, AC To AAG 4
For the Respondent/s : Mr. Ajay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 23-08-2022

Heard learned counsel for the respective parties.

On 16.08.2022, the following order was passed:-

“Short question for consideration in the present Letters Patent Appeal is whether Respondent-employee is entitled to correct his date of birth from 26.05.1955 to 26.05.1959 or not?”

Undisputed facts are that he was initially appointed on



26.05.1989. His services were regularized on 03.07.2009. His date of birth has been entered with reference to medical certificate issued by the doctor while determining dated 26.05.1955 as his date of birth. The respondent-employee had ample time of ten years in terms of the policy decision of the State Government and it was not availed by him in seeking correction of his date of birth within the stipulated time. At the fag end of his service, i.e. six months before the date of his retirement with reference to the date of birth as 26.05.1955 he had approached the appellant-department for rectification of date of birth from 26.05.1955 to 26.05.1959.

Apex Court time and again held that belated rectification of date of birth and that too at the fag end of service should not be entertained. Courts must be very slow in granting any relief.

*Learned counsel for Respondent-employee is hereby directed to peruse the latest decision rendered in the case of **Shankar Lal Vs. Hindustan Copper Limited and Others** reported in (2022) 6 SCC 211.*

Re-list this matter on 23.08.2022.”

Today, learned counsel for the respondent has not apprised this Court that at the fag end of service, employee is permit-



ted to rectify the date of birth in the service register. The Apex Court has held that belated correction of date of birth is not permissible. In the present case, appellant had cause of action on 26.05.1989 when he was initially appointed on *ad hoc* basis. Further, as and when his services were regularized on 03.07.2009.

In the light of these facts and circumstances, the appellant-State of Bihar have made out a *prima facie* case so as to interfere with the learned Single Judge order dated 02.04.2019 passed in CWJC No. 6563 of 2015 and it is set aside. Accordingly, the present LPA stands allowed.

At this stage, learned counsel for the respondent, Mr. Ajay Kumar submitted that in terms of date of birth 26.05.1955 the respondent has attained age of superannuation and retired from service. It is submitted that appellant-State of Bihar has not settled the retiral benefits to the respondent. In that regard if it is not settled, respondent is hereby directed to give detailed representation to the competent authority. The competent authority is hereby directed to calculate and disburse the retiral benefits within a period of three months from the date of receipt of this order, failing which respondent is entitled to interest @ 6% per annum on retiral benefits in the light of Hon'ble Apex Court in the case of **Vijay L.**



Mehrotra Vs. State of Uttara Pradesh and others reported in
(2001) 9 SCC 687.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
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