

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22463 of 2011

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1. Braj Mohan Chaudhary Son Of Late Yugal Chaudhary Resident Of Village-Fatehpur, Komali, P.O. And P.S. Mahnar, District-Vaishali At Hajipur.
 2. Sant Lal Rai Son Of Late Bijuli Rai Resident Of Village And P.O. Lawapur, P.S. Mahnar, District-Vaishali At Hajipur.
 3. Ganaur Rai Son Of Ramchandra Rai Resident Of Village And P.O. Lawapur, P.S. Mahnar, District-Vaishali At Hajipur.
 4. Sone Lal Singh Son Of Ramji Singh Resident Of Village-Manpura, Khajwat, P.O. Chainpura, P.S. Mahnar, District-Vaishali At Hajipur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Urban and Housing Development, Government of Bihar, Patna.
2. The Principal Secretary, Department Of Urban And Housing Development, Government Of Bihar, Patna.
3. The Nagar Panchayat, Mahnar Through The Executive Officer, P.O. And P.S. Mahnar, District-Vaishali
4. The Executive Officer, Nagar Panchayat, Mahnar, P.O. And P.S. Mahnar, District-Vaishali At Hajipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar -Manglam, Advocate
For the Respondent/s : Mr. Naman Nayak, AC to AAG 13

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 30-11-2023

Heard Mr. S.B.K Manglam, learned counsel for the petitioners and Mr. Naman Nayak, learned AC to AAG 13.

2. The present writ petition has been filed directing the respondent authorities not to retire the petitioners from their service on the ground that they have completed 40 years of service from the date of their first appointment before they have



attained their age of superannuation according to their date of birth which was recorded in their service book.

3. Learned counsel for the petitioners submits that the petitioner no. 1 was appointed as a Clerk vide letter dated 20.01.1971 and at the time of his initial appointment, the petitioner no. 1 was aged about 18 years and his date of birth as recorded in his service book is 03.01.1953. The petitioner no. 2 was also appointed in the Municipality on 11.04.1973 and at the time of his appointment he was aged about 20 years and his date of birth as recorded in his service book is 11.04.1953. The petitioner no. 3 was also appointed in the Municipality on 01.02.1972 and his date of birth as recorded in his service book is 10.12.1952 and the petitioner no. 4 was appointed on 15.02.1971 and his date of birth as recorded in his service book is 11.04.1953.

4. The services of the petitioners were terminated by the Municipality in the year 1978 and the petitioners have challenged their removal before this Hon'ble Court in CWJC No. 2989 of 1978. The writ petition was allowed vide order dated 31.03.1980 and the termination order of the petitioners were set aside.



5. Learned counsel appearing on behalf of the State submits that bare perusal of the writ petition it appears that the petitioners have not placed on the record the so called decision of the respondents by which the petitioners have retired from the post in question after completing 40 years of service. He further submits that in view of the decision taken by the Urban Development Department, Govt. Of Bihar as well as in view of the decision of this Hon'ble Court by which it has been decided that an employee entitled to continue in service till he attains the age of 60 years or a total length of service of 40 years whichever occur first. He further submits that vide letters dated 28.05.1990 and 06.01.1997 issued by the Urban Development Department, Govt. of Bihar, by which the Government had issued a general directions to all the administrators/ Chief Executive Officers/ Special Officers of local bodies to get an employee retired who has completed 40 years of service. Similar directions was also issued on 28.01.2012 by which the Urban Development Department, Govt. of Bihar and after the disposal of LPA No. 645 of 2006 the Urban Development Department, Govt. of Bihar issued a general direction vide letter dated 19.04.2011 to the Municipal Corporation/ Chief Executive



Officer of local bodies to get an employee retired from service who had attained the age of 60 years or a total length of service of 40 years, whichever occur first. He further submits that the enhancing of age of superannuation from 58 years to 60 years, the total length of service, which an employee may serve cannot be more than 40 years in total.

6. He further refers to the judgment of this Hon'ble Court reported in **2006 1 PLJR 410 (Full Bench) (Ragjawa Narayan Mishra & another Vs. The Chief Executive Officer, Bihar Rajya Khadi Gramudyog Board & Ors** and the Hon'ble Court after examining the relevant provisions of Bihar Service Code has held that an employee cannot be allowed in service beyond a period of 40 years and as such, an employee who has completed 40 years of service or has attained the age of superannuation i.e. 60 years, whichever is earlier deserves to be superannuated that is total length of service cannot be more than 40 years and that is the rational for fixing the entry age of 18 years when a person attains majority.

7. In view of the aforesaid and the judgment reported in 2006 1 PLJR 410 (Full Bench) and the LPA No. 645 of 2006, the authority has rightly superannuated the petitioners after completing 40 years from the date of their first appointment,



and as such, there is no merit in the writ petition and the same stands dismissed.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18.12.2023
Transmission Date	N/A

