

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10591 of 2013

Radha Raman Prasad S/O Sheo Nandan Prasad Resident Of Chitragupta
Nager Pokheria, P.S- Begusarai Town, District- Begusarai.

... .. Petitioner/s

Versus

1. The State Of Bihar through Director General of Police, Patna, Bihar.
2. Divisional Commandant, Bihar Home Guard, Bhagalpur, Bihar.
3. District Commandant Bihar Home Guard Office, Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Pramod Man Bansh, Advocate
For the Respondent/s : Mr. Madhukar Krishna Sinha, SC1

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 09-07-2024 Heard Mr. Pramod Man Bansh, learned counsel

appearing on behalf of the petitioner and Mr. Madhukar Krishna

Sinha, learned counsel for the respondents.

2. Petitioner has prayed for the following relief(s) in
paragraph no. 1 of the writ petition:

"1. That this is an application for issuance of appropriate writ/writs, directions / directions and writ in the nature of certiorari to quash memo No. 390 dated 17-4-12 issued by District Commandant Bihar Home guard, Begusarai where under he compulsory retired the petitioner on the ground of completion of 58 years on 1-1-12 i.e as per age 21 years wrongly incorporated in Enrolment Register and also for issuance of writ of mandamus commanding the Respondent to re- instate him with back salary."

3. The case of the petitioner is that he had joined

Bihar Home Guard at Begusarai on 01.01.1975 and his date of

birth is 01.01.1957, according to the Matriculation Certificate.

The District Commandant, Begusarai had stopped taking service

from the petitioner from 31.04.2011 while he was on duty at



Sadar Hospital at Begusarai. The petitioner is aggrieved by the action of the Commandant, who, without assigning any reason or giving him any opportunity to explain his status, has passed the impugned order contained in Memo No. 390 dated 14.04.2012. The age of the petitioner at the time of appointment was entered as 21 years and as per the Matriculation Certificate, he has claimed his date of birth to be 01.01.1957. The record reveals that the petitioner had passed Matriculation examination held by the Bihar School Examination Board in the year 1971 and was successful in the said examination as per the Matriculation Certificate. The date of retirement of the petitioner was required to be calculated in accordance with Matriculation Certificate and not as per the incorrect entry made in the Enrollment Register showing his age 21 years at the time of joining on 01.07.1975. The petitioner is aggrieved that instead of correcting the incorrect date of birth mentioned in the Enrollment Register, they had stopped taking services from the petitioner, which is not sustainable.

4. A counter affidavit has been filed by the respondents and it has been stated that petitioner is not entitled for the relief(s) as he has been rightly disengaged after attaining age of 58 years taking his age on the date of his enrollment as



Home Guard Volunteer in 1975. They have clarified that even according to the petitioner, the date of birth of petitioner is accepted to be true then his enrollment as Home Guard Volunteer in 1975 would become void as he was not eligible being underage (i.e. less than 18 years) at the time of enrollment. Since, no change of date was required, the petitioner was not given any show cause in respect of the controversy raised by the petitioner in the present writ petition.

5. Considering the aforesaid pleading made in the writ petition and the counter affidavit, I find that the record reveals that the date of birth entered into the Matriculation Certificate has been recorded as 01.01.1957 and the petitioner was enrolled as Home Guard Volunteer on 01.01.1975 and the said fact has not been denied by the respondents in their counter affidavit. The minimum age required for being appointed, as per the records and the counter affidavit, for the Home Guard is 18 years, i.e. the age, the petitioner attained majority. Taking into consideration the date of birth of the petitioner to be 01.01.1957 then on 01.01.1975, whether petitioner has attained age of 18 years is a question, which is to be considered by the respondents. the respondents have not questioned the genuinity of the Matriculation Certificate nor they have disputed the fact



that the same was ever submitted by the petitioner at any point of time while he was in service. The petitioner chose not to request to any competent authority to correct his date of birth entered at the time of opening of the Enrollment Register and even he was unconscious of the fact that his age was entered as 21 years, he was not expected that he was not aware of the said fact. However, as the respondents have not denied the very fact that the petitioner was not given any opportunity to explain rather it has been stated that in view of the date entered into the Enrollment Register, the petitioner was made to retire after he attained the age 58 years.

6. In these backdrops of the above discussed facts, I direct the authority concerned to consider the grievance of the petitioner on the basis of the legal evidences in respect of the date of birth of the petitioner, if the petitioner makes himself physically present or represent before the concerned authority, in accordance with law within a period of six weeks from the date of filing of the representation.

7. Accordingly, the present writ petition is disposed of.

(Purnendu Singh, J)

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