

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17677 of 2016

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Birmani Prasad Singh Son of Late Shivdani Singh, resident of Village and P.O. Rukhai, P.S. Chandi, District Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Higher Education, Department of Education, Government of Bihar, Patna.
3. Vice Chancellor, Tilkamanjhi Bhagalpur University, Bhagalpur.
4. Registrar, Tilkamanjhi Bhagalpur University, Bhagalpur. null null
5. Principal S.K.R. College, Barbigha, Sheikhpura.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms.Vaishnavi Singh
For the State	:	Mr. Pramod Kumar Singh
For the University	:	Mr. Amit Kumar Jha

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 7 14-05-2024 1. The petitioner has filed the present writ application for quashing the notification, contained in Memo No. 240-243/2016, dated 27.08.2018, by which he has been made to retire on 31.08.2016 on the basis of his date of birth as 01.09.1954; whereas, according to the petitioner, his correct date of birth is 01.06.1957.
2. Learned Counsel for the petitioner argued that the petitioner was appointed as a Peon in S. K. R. College, Barbigha, Sheikhpura on 17.06.1975. The petitioner passed 7th class on 31.12.1971, for which he was granted School Leaving Certificate, dated 15.01.1972, having his



date of birth mentioned as 01.06.1957. She further argued that Annexure 2, which is the Bio-Data filled up for preparation of service book, does not mention the date of birth of the petitioner and in respect of his educational qualification, it has only been mentioned at Column 6, as literate.

3. The petitioner was supplied a copy of the service book on 06.04.2016 and then only he could know that his correct date of birth is not mentioned in the service book and the authorities are made to retire him with effect from 31.08.2016, reckoning his date of birth as 01.09.1954. Immediately thereafter, the petitioner filed representation before the Incharge Principal for correction of his date of birth, stating that his correct date of birth is 01.06.1957, which could be supported by the horoscope of the petitioner.
4. On the direction of this Court, enquiry as conducted by the District Education Officer, Sheikhpura and a counter affidavit has been filed by him, stating therein that he visited personally Shri Ram Ruchi College, Barbigha, Shikhpura on 18.06.2019 and prepared verification report on the basis of the documents furnished by the Principal



of the College. The date of birth of the petitioner in the Transfer Certificate is 01.06.1957 and the date of birth, as 01.06.1957, has been mentioned on the letter pad of the Headmaster, Shradhanand Smarak Madhya Vidyalaya, Barbigha, from where the petitioner completed his studies. Since, the said School was not existing, the District Education Officer could not do the verification from the records of the School. The University authorities did not provide the original copy of service book of the petitioner to the District Education Officer, for verification.

5. On the other hand, learned Counsel for the University submits that after attaining the age of 62 years, i.e. the date of superannuation, the petitioner is disputing the entry of his date of birth, which has distinctly been mentioned in the service book as 01.09.1954. He further submits that in the bio-data attached with the service book having the signature of the petitioner, the date of birth of the petitioner is not mentioned as 01.06.1957 and even in column no. 6, the petitioner has been shown to be literate and not 7th class pass. The University, however, on 05.12.2017, asked all the employees to check/verify the



entry made in the service book and submit their personal details on a format, which is at Annexure-A to the counter affidavit. In the format, duly filled up and signed by the petitioner on 05.12.2007, his date of birth is mentioned as 01.09.1954 and not 01.06.1957, as claimed by the petitioner.

6. The entry in the service book, written in hand, dated 06.04.2008, also shows the date of birth of the petitioner as 01.09.1954 and not 01.06.1957. The petitioner has rightly been made to retire after attaining the age of superannuation, at 62 years, with effect from 31.08.2016. In the fag end of his service, the petitioner cannot be allowed to correct his date of birth.
7. I have heard the rival submissions advanced on behalf of the parties concerned.
8. The primary document with regard to the date of birth entered in the service book, Annexure 2, is the bio-data filled up and signed by the petitioner at the time of his appointment. It shows that date of birth column is blank and in the column of educational qualification, it has been mentioned as literate. The petitioner's reliance on the School Leaving Certificate of 1972, having his date of



birth as 01.06.1957, at the fag end of his service cannot be considered for correction of date of birth. If the petitioner had been appointed on the basis of his educational record, i.e. the School Leaving Certificate, the petitioner would have mentioned his date of birth in the column no. 5 of the bio-data and with regard to educational qualification, he would have mentioned 7th class pass in the column of educational qualification, but both the columns are blank in the bio-data, signed by the petitioner. The University granted another opportunity to the employees to check/verify all the details, including the date of birth, educational qualification etc. in the year 2007, to be filled up in a particular format. The format, at Annexure A, filled up by the petitioner and signed by him also on 05.12.2007, shows that the date of birth of the petitioner has been mentioned as 01.09.1954.

9. On the basis of the revised entry made by the petitioner, the signature of the attesting officer was made in the service book on 06.04.2008 as it appears from Annexure 2.
10. Thus, the case of the petitioner that the petitioner was not knowing about the entry regarding his date of birth in the



service book prior to handing over of service book to him on 06.04.2016 cannot be accepted as the petitioner, in the year 2007, himself filled up his personal details in the format provided by the University regarding date of birth and other details for entering the same in service book.

11. The Supreme Court, in the case of **Union of India and Others v. Kantilal Hematram Pandya**, reported in **(1995) 3 SCC 17**, has held that if the alteration in the service book is sought on the basis of unexplained and inordinate delay, in such circumstances judicial interference should be made sparingly and with circumspect.
12. In the case of **State of Gujarat and Others v. Vali Mohd. Dosabhai Sindhi**, reported in **(2006) 6 SCC 537**, the Supreme Court has held that alteration/correction of date of birth entered in the service book at the verge of retirement cannot be entertained. The request must be made within the period, if any, prescribed under the rules and in absence thereof, then a reasonable period. Onus lies upon the employee to make out a clear case for alteration on the basis of material of conclusive nature.
13. In yet another decision rendered in the case of **State of**



Maharashtra and Another v. Gorakhnath Sitaram Kamble and Others, reported in **(2010) 14 SCC 423**, the Supreme Court has held that any change in the date of birth in the service record at the fag end of the service career is not permissible.

14. In the backdrop of the aforesaid discussion and the fact that the service book of the petitioner records his date of birth as 01.09.1954, the same cannot be doubted in absence of any clinching and conclusive material produced by the petitioner. The production of School Leaving Certificate by the petitioner just before his retirement cannot be considered at this stage for change/alteration of his date of birth from 01.09.1954 to 01.06.1957.

15. Accordingly, I do not find any merit in this writ application.

16. In the result, this writ application is dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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