

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.315 of 2022

In
Civil Writ Jurisdiction Case No.17398 of 2014

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1. The State of Bihar
 2. The Director General of Police, Bihar, Patna.
 3. The Inspector General of Police, Bhagalpur Zone, Bhagalpur.
 4. The Deputy Inspector General of Police, Munger Division, Munger.
 5. The Deputy Inspector General of Police Administration, Bihar, Patna.
 6. The Superintendent of Police, Munger, District Munger.

... .. Appellants

Versus

Vijay Kumar @ Vijay Kumar Singh, S/o Sri Deo Narayan Singh, Resident of Village Irdpey, P.S. District Jamui.

... .. Respondent

Appearance :

For the Appellants	:	Md. Nadim Seraj, GP-5 Mr. Shailesh Kumar, AC to GP-5
For the Respondent	:	Mr. Arun Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 31-07-2025

The present *intra* Court appeal is directed against the judgment dated 08.03.2022, passed by a learned Single Judge of this Court in CWJC No.17398 of 2014, whereby the said writ petition, filed by the respondent/writ petitioner, was allowed directing the appellants/concerned respondents of the writ petition to extend all service benefits, i.e., grant of increment, re-fixation of pay, seniority, pension to the writ petitioner at par with his immediate junior, who has been appointed w.e.f.



14.04.2011 with further direction to reinstate the writ petitioner within a period of two months from the date of receipt of the judgment.

2. The brief facts giving rise to the present appeal is that the writ petitioner was initially enrolled as Home Guard in the year 1989 on the basis of his tentative date of birth mentioned as 20.10.1968, as the enrollment of Home Guard was made on the basis of educational certificate of Class-VIII, in which his date of birth was mentioned as 20.10.1970. The writ petitioner got training of Home Guard and necessary certificates were issued by the competent authority in the year 1989. Due to less work load, as Home Guard, the respondent also passed matriculation examination, held by Bihar School Examination Board in the year 1992, in which, his date of birth is mentioned as 02.06.1975 and his name is mentioned as "Vijay Kumar". In the year 2004, Advertisement No.01/2004, for selection on the post of Constable, was published in daily newspaper in which, the age limit for trained Home Guard candidate of general category was up to 35 years as on 31.01.2004. Respondent applied for the post of constable, but due to inadvertence, in place of mentioning his date of birth as mentioned in matriculation certificate, i.e., 02.06.1975, he mentioned his date



of birth 20.10.1970 as mentioned in the Home Guard certificate. The Selection Board had verified the identity of the respondent as Home Guard from concerned Commandant of Home Guard and verification report dated 09.05.2008 was sent to the Selection Board. Vide memo No.439 dated 04.07.2008 was issued by the Chairman, Constable Selection Committee, Munger Zone, directing the respondent to appear on 14.07.2008 along with all required educational testimonials. Respondent appeared on fixed date with Home Guard certificate with name “Vijay Kumar Singh” and date of birth as 20.10.1968, whereas matriculation certificate with name as “Vijay Kumar” and date of birth as 02.06.1975. On the basis of anomaly in date of birth and name, a criminal case was instituted against the respondent bearing Munger Kotwali P.S. Case No.231 of 2008 on 21.07.2008 for the alleged offence under Sections 419, 420, 467, 468 & 471 of the Indian Penal Code.

3. The respondent/writ petitioner approached this Court vide CWJC No.162 of 2010, which was disposed of by a learned Single Judge of this Court by order dated 18.05.2010, with liberty to the writ petitioner to file detailed representation before the Superintendent of Police, Munger in the light of the earlier decision of this Court. The respondent was appointed on



14.04.2011 but based on investigation in the criminal side, the Disciplinary Authority placed the respondent under suspension on 04.11.2011 issuing a charge memo on 13.11.2011. The respondent submitted his reply on 25.11.2012. The Disciplinary Authority being not satisfied with the respondent's reply, proceeded to hold domestic enquiry against him, which was concluded on 11.07.2013 holding the charge levelled against the respondent proved. The Disciplinary Authority, on the report of the Enquiring Officer dated 11.07.2013, issued second show cause notice to the respondent on 05.08.2013, but the Disciplinary Authority without considering his defence, by order dated 30.09.2013, dismissed him from service. On 07.10.2013, respondent received the order of dismissal vide memo No.2720. The respondent preferred appeal on 29.10.2013 before D.I.G., Munger (against impugned order of dismissal) which was rejected on 27.06.2014 vide memo No.1391.

4. Learned counsel appearing on behalf of the appellants has submitted that the learned Single Judge, while passing the impugned order, has not considered the facts of the case in right perspective. It is further submitted that learned Single Judge has failed to appreciate that the respondent has not disputed the allegations made against him. Learned counsel for



appellants further submits that the learned Single Judge has not considered the evidence found by the Conducting Officer holding the respondent guilty in the Departmental Proceeding, and that there was no violation of the principles of natural justice in the Departmental Proceeding. It was further submitted that the learned Single Judge has not considered the decision rendered in the case of *State of Rajasthan vs. Heem Singh reported in 2020 SCC Online SC 886* passed by the Hon'ble Supreme Court that the scope of judicial review in matters relating to disciplinary proceedings is very limited.

5. Learned counsel appearing for the respondent submitted that on 15.01.2000, vide Memo No.93 (Annexure '5' of the writ petition), Police Department of Respondent-State took conscious decision that any anomaly in date of birth found in Home Guard certificate and the Educational Qualification certificate for the purpose of appointment in regular service, the date of birth mentioned in the educational qualification certificate shall be considered. It was further submitted by the learned counsel for the respondent that certain posts of constable was to be filled up among eligible Home Guard and since engagement of Home Guard was earlier made on the basis of tentative date of birth and as such, in engagement of Home



Guard, large scale of discrepancy, in date of birth, was found in Home Guard certificate in comparison to matriculation certificate and in such conditions, several candidates were not allowed to join and one candidate against whom, a criminal case in response to such difference in date of birth was also instituted. The said candidate approached this Hon'ble Court for seeking remedy for his grievance of non-joining, *vide* CWJC No.5116 of 2009 which was allowed vide order dated 24.06.2009 (Annexure '6' to the writ petition) directing the respondent to accept joining.

6. We have heard learned counsels for the parties and have also gone through the impugned order, passed by the learned Single Judge. The only question that arises for consideration by this Court is whether the order passed by learned Single Judge, requires any interference.

7. On perusal of Annexure-5 to the writ petition, it is evident that the police authorities have categorically stated that in case of any discrepancy or anomaly in the date of birth recorded in the Home Guard records and the educational certificate of the candidate, the date mentioned in the educational certificate shall be considered. This position has been upheld, as reflected in Annexure '6' to the writ petition,



wherein the Court has affirmed that the educational records shall be treated as the conclusive proof of age in the event of such conflict.

8. Furthermore, in the present case, it is clear that the anomaly, in the date of birth, has already been settled in favour of the respondent/writ petitioner and it has been held that such discrepancy, in the date of birth, shall not come into play in the matter of appointment. In light of the settled legal position and the evidence on record, the reasoning adopted by the learned Single Judge appears to be just and proper and warrants no interference.

9. Thus, finding no merit in the present appeal, the same is, hereby dismissed.

10. Pending application(s), if any, stands disposed of.

(Sudhir Singh, J.)

(Ramesh Chand Malviya, J.)

Gaurav Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.08.2025
Transmission Date	NA

