

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1474 of 2021

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Raja Ram Son of Late Puran Ram Resident Of Village Mathiya, P.O.
Basantpur, P.S. Basantpur, District Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General, Home Guard, Bihar, Patna
2. The Director General, Home Guard, Bihar, patna
3. The District Magistrate, Siwan
4. The District Commandant, Siwan

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shyamakant Singh, Adv.
For the Respondent/s : Mr. Harun Quarishi, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

Date : 04-03-2025

Heard Mr. Shyamakant Singh, learned Advocate for
the petitioner and Mr. Harun Quaraishi, learned Advocate for
the State.

2. The grievance of the petitioner is restricted only to
the extent whereby the respondent authorities have compelled
the petitioner to superannuate one year prior to the actual date of
his retirement by treating the age of the petitioner as 19 years at



the time of selection. For redressal of the grievance, the petitioner has invoked the jurisdiction of this Court seeking a direction to consider his representation, which is pending before the competent authority.

3. Learned Advocate for the petitioner referring to the averments made in the writ petition has contended that the petitioner on being duly appointed as Home Guard in the year 1979, he was allotted Home Guard No. 3669 and sent for training. It is the contention of the petitioner that as per the matriculation certificate, his date of birth was duly mentioned as 24.12.1961, which fact also get supported by other certificates, including the Aadhar Card. The authorities concerned had never disclosed regarding the imaginary date mentioned in the nomination register, however, at the fag end when the petitioner came to know that at the time of selection, his age was prescribed only 19 years in the nomination register, he immediately represented to the Director General, Bihar Home Guard, Headquarters, Patna as well as the District Magistrate, Siwan summarizing his *bonafide* claims with a request to allow him to continue his services by taking note of his actual date of birth i.e., 24.12.1961 recorded in the certificate. However, the authority did not examine the claim of the petitioner and, in the



meantime, the petitioner was compelled to retire on 01.01.2020.

Hence, the present writ petition.

4. *Per contra*, learned Advocate for the State dispelling the aforesaid contention has contended that the period of service of the petitioner has been computed on the basis of entry in the nomination register maintained in the office of the respondent no. 4. As per the nomination register, the age of the petitioner on the date and time of selection has been recorded as 19 years. Entries of the nomination register kept and maintained in the normal course are binding and this entry has never been questioned by the petitioner during his service career. However after the retirement, the present writ petition has been preferred. The issue raised before this Court has also been considered by a Bench of this Court in CWJC No. 2507 of 2006 which came to be disposed of vide order dated 11.10.2010, whereby primacy to entries of nomination register has been given.

5. This Court has heard the learned Advocates for the respective parties, and perused the materials available on record. It is the admitted position that the petitioner was duly appointed long back and the age of the petitioner in the nomination register is recorded as 19 years, any change in the date of birth or entry in the nomination register on the basis of matriculation



certificate obtained later on, after about 40 years of service cannot be permitted in the facts of the present case.

6. This Court, in identical matter in the case of ***Subodh Paswan vs. The State of Bihar & Ors*** in CWJC No. 2326 of 2019, while negating the claim of the identically situated Home Guard seeking prayer for alteration of his date of birth at the fag end, has reiterated the observation of the Hon'ble Supreme Court, which would be worth benefiting to encapsulate hereinunder:

*12. The law with regard to the correction of date of birth at the fag end of service has been duly considered by the Hon'ble Apex Court on various occasions. In the **State of T.N. v. T.V. Venugopalan [(1994) 6 SCC 302]**, the Hon'ble Court has observed that the government servant should not be permitted to correct the date of birth at the fag end of his service career. It would be worth benefiting to encapsulate the relevant observation.*

“7. ... The government servant having declared his date of birth as entered in the service register to be correct, would not be permitted at the fag end of his service career to raise a dispute as regards the correctness of the entries in the service register. It is common phenomenon that just before superannuation, an application would be made to the Tribunal or court just to gain time to continue in service and the Tribunal or courts are unfortunately unduly liberal in entertaining and



allowing the government employees or public employees to remain in office, which is adding an impetus to resort to the fabrication of the record and place reliance thereon and seek the authority to correct it. When rejected, on grounds of technicalities, question them and remain in office till the period claimed for, gets expired. This case is one such stark instance. Accordingly, in our view, the Tribunal has grossly erred in showing overindulgence in granting the reliefs even trenching beyond its powers of allowing him to remain in office for two years after his date of superannuation even as per his own case and given all conceivable directions beneficial to the employee. It is, therefore, a case of the grossest error of law committed by the Tribunal which cannot be countenanced and cannot be sustained on any ground.”

13. In *Secretary and Commissioner, Home Department and Others v. R. Kirubakaran* [1994 Supp (1) SCC 155], the Hon’ble Supreme Court while reiterating the legal position that the Courts have to be extremely careful when application for alteration of the date of birth is filed on the eve of superannuation or near about that time, has succinctly observed that whenever an application for alteration of the date of birth is made on the eve of superannuation or near about that time, the court or the tribunal concerned should be more cautious because of the growing tendency amongst a section of public servants, to raise such a dispute, without explaining as to why this question was not raised earlier.



*14. In **State of Uttaranchal and Others v. Pitamber Dutt Semwal** [(2005) 11 SCC 477], the Hon'ble Supreme Court has denied the relief to the government employee on the ground that he sought correction in the service record after nearly 30 years of service with an observation that the High Court ought not to have interfered with the decision after such a long period.*

*15. Recently, the Hon'ble Supreme Court in the case of **Karnataka Rural Infrastructure Development Limited v. T.P. Nataraja and Others with other analogous cases** [(2021) 12 SCC 27], after reiterating the various decisions, covering the issue on this point, has summarized the law on the issue of correction of date of birth in para-11 of the decision, which is quoted hereunder.*

“11. Considering the aforesaid decisions of this Court the law on change of date of birth can be summarised as under:

(i) application for change of date of birth can only be as per the relevant provisions/regulations applicable;

(ii) even if there is cogent evidence, the same cannot be claimed as a matter of right;

(iii) application can be rejected on the ground of delay and laches also more particularly when it is made at the fag-end of service and/or when the employee is about to retire on attaining the age of superannuation.”

7. In view of the aforesaid facts and the position obtaining in law, especially the entries in the nomination register



showing the age of the petitioner as 19 years at the time of selection as also the delay and laches in approaching the authority and the Court at the fag end of the service, this Court does not find any merit in the writ petition. The writ petition stands dismissed, accordingly.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	05.03.2025
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