

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.24 of 2021

In
Civil Writ Jurisdiction Case No.21916 of 2018

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Lalan Singh, S/o Late Ram Nandan Singh, R/o Porter East Central Railway,
Rajendra Nagar, P.S.-Rajendra Nagar, District-Patna (Bihar).

... .. Petitioner

Versus

1. The Union of India through the General Manager, East Central Railway, Hajipur, District-Vaishali.
2. The General Manager (Personnel), East Central Railway, Hajipur, District-Vaishali.
3. The Divisional Railway Manager, East Central Railway, Danapur.
4. The Senior Divisional Commercial Manager, East Central Railway, Danapur.
5. The Senior Divisional Personnel Officer, East Central Railway, Danapur.
6. The Senior Divisional Financial Manager, East Central Railway, Danapur.

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Sanjay Kumar, Advocate Mr. Sarva Deo Singh, Advocate
For the Railways	:	Mr. Praveen Kumar Sinha, Sr. Panel Counsel Mr. Amitesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SOURENDRA PANDEY
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 11-12-2025

Heard learned counsel for the petitioner and learned
counsel for the Railways.

2. By filing this review application, the petitioner is
seeking review of the judgment dated 31.01.2020 passed by the
Hon'ble Division Bench of this Court in CWJC No. 21916 of
2018.



3. It is submitted that the judgment under review (in short 'JUR') has been passed *ex parte* as learned counsel conducting the case had died in the first week of January, 2020, therefore, the case could not be attended on the date of hearing.

CWJC No. 21916 of 2018

4. It appears that the petitioner filed the writ application seeking to quash the order dated 01.08.2017 passed by the Central Administrative Tribunal Patna Bench, Patna (hereinafter referred to as the 'Tribunal') in O.A. No. 429 of 2015 by which the learned Tribunal dismissed the O.A. case with cost of Rs.5,000/-. The Tribunal refused to interfere with the letter dated 25.02.2015 issued under the signature of Respondent No. 5 by which the petitioner was made to superannuate w.e.f. 30.06.2015.

5. It is the case of the petitioner that he was initially engaged as Parcel Porter in the Eastern Railway, Asansol and was absorbed against Group 'D' based in the light of the order of the Hon'ble Supreme Court of India passed in Writ Petition No. 90 of 1987 on 16.10.1998.

6. It is stated that the Asansol Division had called for details of the petitioner for purpose of his regular posting. In compliance thereof the petitioner had submitted his details on 09.02.1999 in which his date of birth has been clearly mentioned



as 18.01.1964. Again, on the direction of the Asansol Division contained in Letter dated 19.12.2000, the petitioner submitted his declaration as to date of birth, character, caste and photographs. It is his case that in the document submitted by him, he has shown his date of birth as 18.01.1964 whereafter he was absorbed permanently *vide* order dated 15.02.2001. In this connection, he has relied upon the documents such as Annexures '3', '4', '5' and '6' to the writ application.

7. Mr. Sarva Deo Singh, learned counsel for the petitioner has submitted with reference to the Attestation Form (Annexure '5') that in the Attestation Form, in the column no. '7. (a)', the petitioner has clearly mentioned his date of birth as 18.01.1964. A perusal of the letter dated 15.02.2001 (Annexure '6'), it appears that the petitioner was provisionally appointed in Group 'D' in the scale of Rs.2550-3200/- and was posted as Parcel Porter under CS(P) under ASN until further orders. He was directed to report himself to CS(P) under ASN.

8. Learned counsel for the petitioner submits that on the request of the petitioner, he was permanently transferred under East Central Railways and was posted at Danapur *vide* order dated 09.04.2003. The grievance of the petitioner is that all of a sudden, he received a communication dated 25.02.2015 whereby and



whereunder the petitioner was made to superannuate from service on 30.06.2015 on the basis of his date of birth shown as 01.07.1955. The petitioner alleged that the action of the respondents in imposing upon him a superannuation taking his date of birth as 01.07.1955 is wholly illegal, unjust and improper.

Decision of the Tribunal in O.A. No. 429 of 2015

9. It is stated that the petitioner moved before the Tribunal raising his grievance in O.A. No. 429 of 2015. Initially *vide* an interim order dated 30.06.2015, operation of the impugned order/communication was stayed and the petitioner was directed to produce the primary documents of date of birth. The interim order of the Tribunal was challenged by the respondents in CWJC No. 14254 of 2015 on the ground that the Tribunal had granted final relief by way of an interim order. This Court set aside the interim order of the Tribunal and issued direction to the Tribunal to hear the matter finally. Before the learned Tribunal, the petitioner relied upon a judgment of the Kolkata Bench of the Tribunal passed on 19.03.2014 in O.A. No. 1047 of 2013. It was submitted that in identical matter, the Kolkata Bench had granted relief to the applicants.

10. Learned counsel submits that before the Tribunal the respondents annexed a copy of the Attestation Form containing an



interpolated entry said to have been incorporated on the basis of a so-called report of the Medical Board dated 30.09.2001. The petitioner claimed that the Attestation Form was interpolated. The photocopies of the Attestation Form annexed by the official respondents and the issue of age by Medical Board have been placed on record with the writ application as Annexures '9' and '9/A' respectively. In Annexure '9', the date of birth mentioned in the Attestation Form (Annexure '5') has been cut down and his date of birth has been written as 01.07.1955. His signature has been shown below the cut in column '7.(a)' of the Attestation Form. It further appears that Annexure '9/A' is the physical fitness certificate issued by the Eastern Railway on 04.01.2001 and one communication dated 30th August, 2001 issued by the Eastern Railway with regard to the date of birth is also enclosed with the writ application as part of Annexure '9/A'.

11. According to the communication dated 30th August 2001, the 29 named Parcel Porters who were declared suitable by the Screening Committee after assessment of age by the Medical Board, the date of birth as assessed by the Medical Board as per order of the competent authority in connection with their absorption as Parcel Porters, will be inserted in their service record for record. The name of the petitioner finds place at serial number



29 and in front of his name, his date of birth has been shown as the same as that of the person at serial number 28, which is 01.07.1955. The communication also says that the named staffs were to be directed to attend the office and correct the date of birth in the attestation form which they had submitted earlier.

12. In the aforementioned background, the learned Tribunal recorded in paragraph ‘7,’ 8’ and ‘9’ of its judgment as under:-

“7. It is clear that the date of birth as 18.01.1964 was declared by the applicant himself on the basis of some secondary evidence which was not considered reliable by the authorities. Thereafter, a scientific examination was done by the Medical Board for assessing the age. On that basis, the date of birth was determined as 01.07.1955 with intimation to the applicant. The applicant himself made the correction accordingly in the Attestation Form. In this background, the applicant submitting the Attestation Form as part of the O.A. minus the correction amounts to concealment of a relevant fact with ulterior motive. Any person seeking equity before the court of law must approach with clean hand.

8. The correction in date of birth as 01.07.1955 was done by full consent of the applicant in 2001 and in his own hand. Therefore, he is not permitted to dispute this age on the verge of retirement. Further, he is guilty of misleading the Court by placing a document which he had himself corrected subsequently. Had the corrected document not been paced by the authorities, we would have not known the true facts.



9. In conclusion, there is no merit in the OA. Hence, dismissed. A cost of Rs. 5,000/- (Five thousand) is imposed on the applicant which the authorities may recover from his pensionary dues.”

13. Being aggrieved by the judgment of the learned Tribunal, the writ petition was filed in which the ‘JUR’ has been passed.

Pleadings in the Writ application

14. As recorded hereinabove, the petitioner contended that his the date of birth was changed by way of interpolation in the attestation form at page-2. He contended that once there was an educational certificate, on the basis of which the date of birth was recorded and the same was earlier ordered by the Bench for verification, the dismissal of the O.A. on the basis of the interpolated entries in the attestation form filed by the official respondents is not correct. He claimed that the interpolated writings are different and the attestation form was not corrected by the petitioner. It is his submission in paragraph ‘13’ of the writ application that in absence of any proof of date of birth such as educational certificate, a Medical Board can assess the age to ascertain the date of birth, but in the present case, no inquiry and order had ever been issued disbelieving the genuineness of the date of birth certificate of the petitioner so there was no occasion to



change the date of birth on the basis of a so-called medical examination without giving any notice for changing of the original date of birth as entered at the time of filling of the attestation form.

15. The learned writ court has disposed of the writ application after holding as under:

“In this case, the dispute has been raised about the date of birth of the petitioner as he is claiming that his date of birth should have been 18.01.1964 in place of 1.07.1955.

The petitioner has entered into service as casual labour; at the time of his absorption, he was sent for assessment of his age by the Medical Board and the Medical Board has assessed his age as 1.07.1955 and, accordingly, his date of birth has been recorded in the service book; he never challenged the date of birth and at the fag end i.e. at the time of superannuation, he has challenged that his date of birth should have been 18.01.1964, which has not been accepted by the Tribunal.

In that view of the matter, we do not find any error in the order of the Tribunal and, accordingly, this application is dismissed.”

Submissions on behalf of the petitioner

16. Learned counsel for the petitioner has reiterated his submissions as contained in the writ application. In course of hearing of the review petition, this Court took note of the contentions of the learned counsel for the petitioner that the petitioner was never informed of any Medical Board constituted, if



any, by the Eastern Railway and no age determination of the petitioner had taken place by a so-called Medical Board. While taking note of the fact, this Court called upon the Eastern Railway to produce before this Court the order constituting the Medical Board and the determination of age of the petitioner by the Medical Board. Today, this Court has been informed by learned Advocate for the Railways that the order constituting the Medical Board and the report/findings of the said Medical Board are not available in the Asansol Division. It is, however, pointed out that a document issued by the Senior Divisional Personnel Officer, Asansol dated 30.08.2001 has been furnished from the employee's service record. This document explicitly records the petitioner's date of birth as 01.07.1955.

Submissions on behalf of the Railways

17. Learned counsel for the Railways submits that the communication dated 30.08.2001 is a contemporaneous document which has not been denied by the petitioner. In fact, the said document is available on the record of the writ application being part of Annexure 'R9/A'. It is submitted that neither before the Tribunal nor in the writ application filed before this Court, the petitioner has specifically denied his signatures present below the corrections made in the attestation form. There is no averment that



the petitioner was never called upon to appear before a Medical Board for assessment of his age or that he was not aware of the communication dated 30.08.2001. In such circumstance, his contention that there was no occasion for assessment of his age through a Medical Board without disbelieving the genuineness of the date of birth certificate is only an afterthought. In fact, in the O.A. filed before the Tribunal, the petitioner has not even whispered in the pleadings that the signature present on the attestation form just below the corrections made at page-2, is not his signature. It is, thus, submitted that the oral submissions made by learned counsel for the petitioner which has been recorded by this Court does not find support from the pleadings.

Consideration

18. Having regard to the rival submissions recorded hereinabove and on perusal of the records, we find that in the O.A. filed before the Tribunal, there is no whisper that the petitioner was never called for any medical examination for assessment of his age. The petitioner has not mustered enough courage to state that the signature present on the attestation form, just below the correction at page-2, is not his signature. In fact, in the O.A., the petitioner has pleaded that he is simply a Vth class pass and he cannot even read Hindi or English, but he can only put his



signature. Having said so, the petitioner did not say that the signature present below the corrections at page-2 of the attestation form is not his signature.

19. In the writ application also, while assailing the order of the learned Tribunal, the petitioner has not specifically pleaded that no Medical Board was constituted for assessment of age. He has not assailed the finding of the Tribunal in paragraph ‘7’ that the applicant himself made the correction in the attestation form.

20. The learned writ Court has, in our considered opinion, not committed any error apparent on the face of the record in the ‘JUR’.

21. In result, this review application would fail. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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AFR/NAFR	
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