

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19686 of 2024

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Bachcha Mishra @ Bachcha Prasad Mishra, Son of Late Ramji Mishra,
resident of Village-Ward No. 8, Ratu Bigha, Dalmianagar, P.S.-Dalmianagar,
District-Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department,
Government of Bihar, Patna.
2. The Principal Secretary, Home Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Central Range, Bihar, Patna.
5. The Deputy Inspector General of Police, Sahabad Range, Dehri-on-Sone.
6. The Deputy Inspector General of Police (Personnel), Bihar, Patna.
7. The Superintendent of Police, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vikash Kumar Shukla, Advocate
For the Respondent/s : Mr. Gyan Prakash Ojha, GA-7

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 15-01-2025 Heard the parties.

2. The petitioner is aggrieved with the order dated
11.11.2009 passed by the Deputy Inspector General of Police
(Personnel), Bihar, Patna whereby the application for
rectification in date of birth of the petitioner in service record
has been rejected.

3. At the outset, learned Government Advocate No. 7
has made a preliminary objection with regard to the
maintainability of the writ petition on the point of delay and
laches as it has been apprised to this Court, that the claim of the



petitioner for rectification in the date of birth has been turned down way back in the year 2009 itself; and the petitioner thereafter, has attained the age of superannuation on 31.03.2010 itself. Now, the present writ petition is filed after a delay of fourteen years.

4. From the averments made in the writ petition, it would be apparent that the petitioner had joined the post of constable on 01.02.1971. In the service book of the petitioner at the time of his joining, his date of birth was mentioned as 02.03.1950. The petitioner submitted his application on 02.05.1979 to the concerned officials for correction in date of birth as per his matriculation certificate, which demonstrates the date of birth of the petitioner as 18.01.1953.

5. It is the contention of the petitioner that time without number the application for rectification of the date of birth in the service record has been submitted, but at no point of time, the same was considered in the light of the date of birth mentioned in the matriculation certificate and just before his date of superannuation, his claim has been turned down by the impugned order.

6. The aforesaid order impugned herein is said to be without application of mind, as the respondent authority failed to consider the date of birth mentioned in the matriculation



certificate.

7. On consideration of the submissions advanced and the averments made in the writ petition, this Court *prima facie* finds that the claim of the petitioner has already been turned down way back in the year 2009; and the petitioner has already superannuated on 31.01.2010 albeit, the present writ petition is filed after fourteen years.

8. While rejecting the claim of the petitioner, the respondent authority has taken note of relevant circular issued by the Police Headquarter as well as Rule 96 of the Bihar Financial Rules, 1950, apart from various decisions rendered by this Court as well as Apex Court; that once the date of birth is recorded after entering service and countersigned by Government servant, the same would not be allowed to challenge at the fag end of his service.

9. The respondent authorities after proper deliberation and verification of the record also found, that if the stand of the petitioner in respect to his date of birth as mentioned in the matriculation certificate is accepted, his very appointment would have become illegal, on account of not having even completed minimum age at the time of appointment.

10. The Hon'ble Supreme Court in the case of ***Karnataka Rural Infrastructure Development Ltd. vs. T.P.***



Nataraja & Ors. (2021)12 SCC 27 while reiterating the earlier decisions on the issue raised before this Court has held in no uncertain terms that :

“11. Considering the aforesaid decisions of this Court the law on change of date of birth can be summarized 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.”

11. In view of the settled position and the fact that the writ petition *prima facie* suffers from delay and laches inasmuch as the claim of the petitioner has already been turned down way back in the year 2009 itself and the present writ petition has been filed after a delay of fifteen years, the same stands dismissed having no merit.

(Harish Kumar, J)

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