
(2003) 01 PAT CK 0051
In the Patna High Court
Case No : C.W.J.C. No. 13368 of 2002

Nawal Kishore Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 27-01-2003

Acts Referred:

Bihar Service Code, 1952 — Rule 73

Citation : (2003) 2 PLJR 156

Hon'ble Judges : Shashank Kr. Singh, J

Bench : Single Bench

Advocate : Sanjay Kumar Ghosarvey, for the Appellant; Mahesh Prasad, for the Respondent

Final Decision : Dismissed

Judgement

Shashank Kr. Singh, J.—The Petitioner is aggrieved by an order, as contained in Annexure-5, by which he has been directed to be superannuated with effect from 31.7.2002 after completing 40 years of service.

2. The contention on behalf of the Petitioner is that he has been appointed on 16.7.1962 and the date of birth entered in his service book was 30.12.1945 and in view of Rule 73 of the Bihar Service Code, he was entitled to continue in service till he attains the age of 58 years and in view of the same, he should be allowed to continue in service as his date of birth as recorded was not in dispute.

3. The aforesaid fact came for consideration before a Bench of this Court in C.W.J.C. No. 4372/02, which was dismissed on 22.11.02. After taking into consideration the relevant judgment of this Court, Ranchi Bench of this Court (as it then was) and rival contentions, this Court had come to the conclusion that after completion of 40 years of service, a person has played an inning in life and should gracefully accept his retirement. The aforesaid case was challenged by filing L.P.A. No. 1264/02. The aforesaid L.P.A. also stood dismissed. Similarly in C.W.J.C. No. 1112/ 2000 similar order was passed on 23.11.2001 and affirmed

by the L.P.A. Bench in L.P.A. No. 6/2002. In the aforesaid case this Court in view of the judgment in C.W.J.C. No. 553/94(R) and in the case of Mokhtar Ahmed v. Bihar State Road Transport Corporation and Ors. 1995 (1) PLJR 183 as well as L.P.A. No. 91/95(R) also did not grant any relief to the writ Petitioner.

4. In view of the aforesaid consistent view of this Court, this Court is also not inclined to pass any other order in favour of the Petitioner and in view of the observation as made above, as the Petitioner has completed 40 years of service, he should gracefully retire.

5. So far as discharge of duty by the Petitioner for two months after completing 40 years of service is concerned, the Executive. Engineer, P.H.E.D., Bhagalpur West Bhagalpur (Respondent No. 3) is directed to verify the same and if the Petitioner has discharged his duty and work has been taken from him for the period even after his superannuation, he has to be paid his remuneration for the same, for which the Petitioner should prefer a representation along with a copy of this order within a period of one month from today and if such a representation is filed, the same should be disposed of within a further period of two months from the date of its filing and if any money is due to the Petitioner, the same should be paid to him forthwith.

6. This application is, accordingly, dismissed.