

(2003) 07 PAT CK 0052
In the Patna High Court
Case No : C.W.J.C. No. 4899 of 2000

Shri Bhogendra Singh

APPELLANT

Vs

The Chairman, Bihar State Electricity Board and Others

RESPONDENT

Date of Decision : 17-07-2003

Acts Referred:

Citation : (2003) 3 BLJR 1649

Hon'ble Judges : Chandramauli Kumar Prasad, J

Bench : Single Bench

Advocate : Rajendra Lal Das, for the Appellant; Piyush Lal, for the Respondent

Final Decision : Dismissed

Judgement

Chandramauli Kr. Prasad, J.—This application has been filed for issuance of a writ in the nature of certiorari for quashing the order dated 14-1-1999 whereby the age of the petitioner has been determined as 27 years on 7-11-1998. Further prayer made by the petitioner is to quash the order dated 1 -3-2000 whereby the representation filed against the aforesaid order, has been rejected.

2. Short facts giving rise to the present application are that the petitioner was initially appointed as unskilled Khalasi by order dated 9-11-1965 and in pursuance thereof, he joined the service on 11-11-1965. According to the petitioner his date of birth was recorded as 20-11-1945 in the Service Book on the basis of the Medical Certificate. It is his stand that his date of birth ought not to have been changed by the respondents.

3. Counter-affidavit has been filed on behalf of the respondents in which it has been stated that on account of information that the date of birth in respect of a large number of employees of the Bihar Electricity Board, hereinafter referred to as the Board, have been interpolated, the Board, by order dated 3rd of August, 1995, constituted a Committee to examine the discrepancies in the date of birth of the employees. The Committee, so constituted, examined the service book of the petitioner and found year of birth of the petitioner recorded in the service

book, to be over-written requiring thorough examination. In view of the opinion of the Committee, petitioner was referred to the Medical Board for determination of his age. Petitioner without any protest appeared before the Medical Board on 7-11-1998 and his age was determined as 57 years and consequently, his date of birth has been reckoned as 7-9-1941. It has further been stated that on that basis, petitioner shall retire in November, 2001.

4. No rejoinder to the counter-affidavit has been filed. In view of aforesaid, I have no difficulty in holding that the case of the petitioner was rightly referred to a Committee on account of over-writing in the year of birth of the petitioner recorded in the Service Book. Further, the petitioner appeared in the Medical Board for determination of age without protest.

5. Mr. Rajendra Lal Das, appearing on behalf of the petitioner submits that the petitioner ought not to have been referred to the Medical Board for determination of his age.

6. Mr. Piyush Lal, however, appearing on behalf of the respondent Board submits that the Committee found interpolation in the year of birth of the petitioner in the service book and in order to determine petitioner's age, he was sent to Medical Board. He also points out that the petitioner having appeared before the Medical Board for determination of his age, without any protest, lateron, he cannot be permitted to challenge the same, only because report of the Medical Board had gone adverse to him. Reliance has been placed on a decision of this Court dated 9-4-2003 passed in C.W.J.C. No. 1428 of 2002 (Fugan Madan v. Chairman, Bihar Electricity Board and Ors.).

7. Having appreciated the rival submissions, I do not find any substance in the submission of Shri Das. In view of the finding that there was interpolation in the service book in regard to the year of the date of birth of the petitioner, respondents were justified in referring the petitioner to the Medical Board for determination of age. In fact, petitioner appeared before the Medical Board without any protest and had chosen to challenge its opinion after it had gone adverse to him.

8. It is trite that once a Medical Board is constituted for ascertaining the age and the employee appears without any objection before the said Board, lateron, he cannot be permitted to challenge the same.

9. In the result, I do not find any merit in this writ application and it is dismissed accordingly. No costs.