
(2010) 11 PAT CK 0087
In the Patna High Court
Case No : CWJC No. 4282 of 1997

Sri Surya Kant Mishra

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 16-11-2010

Acts Referred:

Citation : (2011) 59 BLJR 2148 : (2011) 1 PLJR 813

Hon'ble Judges : V.N. Sinha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

V.N. Sinha, J.—Heard learned Counsel for the Petitioner and the counsel for the Bihar State Electricity Board (hereinafter referred to as the Board).

2. Petitioner at the relevant time served as Junior Linesman in the Electric Supply Sub-Division, Sheohar. He is aggrieved by the order of the Electrical Executive Engineer, bearing No. 198 dated 31.1.1997, Annexure-4, whereunder he has been directed to retire from the service of the Board with effect from 31.1.1997 (Afternoon).

3. It is submitted on behalf of the Petitioner that the order dated 31.1.1997, Annexure-4 passed by the Board is contrary to the entries made in the service book whereunder his date of birth has been recorded as 21.8.1938, which would appear from the photocopy of the first page of the service book duly attested by the Electrical Executive Engineer under his signature dated 7.11.1990 contained in Annexure-1 to this application. With reference to Annexure-1, it is further submitted that had the date of birth of the Petitioner recorded in Annexure-1 would have been accepted by the authorities of the Board, impugned order may not have been passed asking him to retire with effect from 31.1.1997 and with reference to the said entries, it is submitted that this Court should quash the impugned order dated 31.1.1997, Annexure-4 and direct the authorities of the Board to pay the arrears of salary to the Petitioner until the date of his

retirement i.e. 31.8.1998.

4. Aforesaid submission is being refuted by the counsel for the Board with reference to the averments made in the counter affidavit as also with reference to the photocopy of the first page of the service book of the Petitioner appended with the counter affidavit as Annexure-A, wherefrom it appears that the date of birth entry originally recorded in the service book of the Petitioner was penned through and corrected as 21.8.1938 on 15.5.1980. The Officer who corrected the same has only put his initial, as such, it is not known whether he was competent to make such correction in the service book of the Petitioner. The first page of the service book further indicates that the date of birth entry of the Petitioner has again been recorded by the Electrical Executive Engineer in Devanagari on 4.8.1985 although Petitioner had entered in the service of the Board on 1.12.1962 and the service book was opened on 19.6.1963. It is further submitted on behalf of the Board that as there was correction in the date of birth entry of the Petitioner in the first page of his service book, which was not authenticated by the competent authority, matter was referred to the Area Board in the light of the alteration made in the service book without the approval of the competent authority and the Area Board under its Minutes dated 10.1.1997 having noticed the alteration made in the service book without the approval of the competent authority, decided to superannuate the Petitioner taking into account the original date of birth entry made in the service book i.e. 7.9.1933 with immediate effect and in compliance of such resolution of the Area Board, impugned order directing retirement of the Petitioner with effect from 31.1.1997 was issued.

5. Counsel for the Petitioner in rejoinder, submitted that from the resolution of the Area Board dated 10.1.1997 itself it would appear that age of the Petitioner recorded in the service book was altered on 15.5.1980 with reference to his age assessed by the Civil Assistant Surgeon who assessed him as 25 years old on 21.8.1963, on the basis of which the date of birth of the Petitioner recorded in the service book was altered from 21.8.1933 to 21.8.1938. In this connection, it was pointed out that as the Executive Engineer altered the date of birth entry of the Petitioner to his advantage on 15.5.1980, he had no occasion to question such entry but when he has been superannuated by advancing the date of retirement ignoring the alteration made in the service book by the Executive Engineer, that too behind the back of the Petitioner, he has filed the present writ petition, which should be allowed.

6. Having heard counsel for the parties and having perused the pleadings made by them, including the Annexures appended with the writ petition, the counter affidavit, it appears, Petitioner entered the service of the Board on 1.12.1962, his service book was opened on 19.6.1963 in which his date of birth was initially recorded as 7.9.1933, which was also authenticated by the Petitioner by putting his signature on the same page of the service book. Later, the date of birth entry recorded in the service book was altered by a functionary of the Board on

15.5.1980, but the designation of the functionary making such alteration is not indicated in the service book, still later, on 4.8.1995 the Executive Engineer wrote on the same page of the service book in Devnagari the date of birth of the Petitioner as 21.8.1938." These two entries appears to have been made on the basis of the age assessed by the Civil Assistant Surgeon on 21.8.1963 as 25 years but without approval of the competent authority. Petitioner never requested the authorities of the Board to alter the initially recorded date of birth entry in his service book from 21 R.1933 to 21.8.1938. In the cir-commences, there is no material placed before this Court to suggest that Petitioner ever disputed his initially recorded date of birth in the service book. As the Petitioner never disputed his date of birth recorded in the service book at the time of its opening, there is no occasion for him to question the impugned order of retirement, which has been passed on the basis of the same age which was recorded in the service book at the time of its opening.

7. I do not find any merit in the writ petition, which is, accordingly, dismissed.