

Ram Narayan Vs. Bihar State Electricity Board and ors.

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Court : Patna

Decided On : Feb-18-2003

Judge : Chandramauli Kr. Prasad, J.

Appeal No. : C.W.J.C. No. 10458 of 2000

Appellant : Ram Narayan

Respondent : Bihar State Electricity Board and ors.

Advocate for Def. : Ramesh Kumar Dutta, SC IX

Advocate for Pet/Ap. : Anand Mohan Verma, Adv.

Disposition : Appeal dismissed

Judgement :

Chandramauli Kr. Prasad, J.

1. This application has been filed for quashing the orders dated 19-7-2000 and 8-8-2000 (Annexure-7 series) whereby the petitioner has been asked to appear before a Medical Board for ascertaining his age.

2. Short facts giving rise to the present writ application are that by communication dated 6th of August, 1998, petitioner was communicated that he has been retired from service of the Bihar State Electricity Board, hereinafter referred to as the

Board w.e.f. 30th of April, 1990. By another order dated 13-5-1998, the Board took decision to recover 50 per cent of the emoluments to the petitioner between the period 30th of April, 1990 to 4th of August, 1998. In the service record of the petitioner, according to the Board, the date of birth was recorded as 8th of April, 1930 but the same was interpolated and was written as 8th of April, 1939. A report to the said effect was given by the Forensic Science Laboratory.

3. Petitioner aggrieved by the order retiring him from service from 30th of April, 1990 and directing for recovery of 50% of the emoluments filed C.W. J.C. No. 8629 of 1998 Ram Narayan v. Bihar State Electricity Board and Ors.. This Court by order dated 28-1 -2000 (Annexure 2), gave liberty to the respondent Board to initiate proceeding against the petitioner in relation to interpolation in the service book. This Court further directed the Board to ask the petitioner to appear before the Medical Board for ascertainment of his age. In pursuance of the said order, petitioner appeared before the Medical Board which assessed his age on 28-4-2000 between 5 to 65 years and average 60 years. As there was wide gap between the age assessed by the Medical Board, according to the respondent Board by the impugned orders petitioner was directed to appear before another Medical Board.

4. Mr. Verma appearing on behalf of the petitioner submits that the report of the Medical Board did not suit the respondent Board and as such by the impugned order, petitioner has been asked to appear before another Medical Board. He points out that in compliance of the order of this Court, once the petitioner has been subjected for examination by the Medical Board for ascertainment of his age, respondent Board does not possess any authority to ask the petitioner to appear before the Medical Board again,

5. Mr. R.K. Dutta, however, appearing on behalf of the respondents Board submits that there being wide gap in the age assessed by the respondent Board, the respondents Board had decided to subject the petitioner for examination by another Medical Board for ascertainment of his age. It is relevant here to state that the Forensic Science Laboratory who had examined the service record had opined that in the date of birth 8th April, 1939, the last digit '0' of the year has been

converted into 9 by overwriting.

6. Having appreciated the rival submissions, I do not find any substance in the submission of Mr. Verma. As stated earlier, there is wide gap between the age assessed by the Medical Board. In that view of the matter, nothing prevents the respondents from constituting another Medical Board for ascertaining the age of the petitioner. In case the petitioner is sanguine about his age there is no reason to avoid appearing before the Medical Board for ascertainment of his age.

7. I do not find any merit in this application and it is dismissed accordingly. No costs.

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