

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CWJC No.9308 of 2005**  
**MOST.POLI DEVI w/o late Gudar Mandal, resident of village-**  
**Hariraha, P.S.Karjain, District- Supaul.**

**Versus**

- 1. THE STATE OF BIHAR through the Secretary-cum-Commissioner, Irrigation Department, Govt. of Bihar, Patna.**
  - 2. The Engineer-in-Chief, Irrigation Department, Irrigation Building (Sichai Bhawan), Govt. of Bihar, Patna.**
  - 3. The Superintending Engineer, West Kosi , Nahar Anchal, Madhubani.**
  - 4. The Executive Engineer, West Kosijalwaha Pramandal, Benni Patti, Madhubani**
  - 5. Additional Divisional Officer (Awar Pramandal Padadhikari, West Kosi Jalwaha Anchal, Division No.1,Beni Patti, Madhubani.**
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3            30.11.2010

The petitioner is a widow of one Gudar Mandal, who superannuated on 31.7.1997 as a Choukidar from Kosi Jalwaha Pramandal no.1, Beni Patti, district- Madhubani.

The writ petition has been filed in the year 2005 claiming that the date of birth of her late husband, as recorded in the service book, was wrongly recorded as 1.9.1939, it should have been 24.9.1944. The basis for this is that when the petitioner's late husband was being employed in the year 1969, he being illiterate. He was asked his age. As per Medical Certificate issued, his date of birth should be 24.9.1944 as on that date he disclosed his age to be 25 years. The Medical Certificate being issued on 24.9.1969 accordingly. In support of assertion, the petitioner has annexed typed copy of relevant page of her late husband's service book and in rejoinder to the counter affidavit, a copy of the Medical Certificate.

State, on the other hand, filed a counter affidavit and rejoinder to the petitioner's rejoinder.

The stand of the State is that right from service career, petitioner's late husband did not protest nor did he raise the controversy about his date of birth. He superannuated on 31.7.1997 and then died in the year 2000.

It is submitted that if the date of birth is extended ,as prayed for, then his date of superannuation would get shifted to 30.9.2002 and thus she could claim that her husband died in harness and she was entitled to or her family was entitled to compassionate appointment.

Having heard learned counsel for the parties and with their consent the writ petition is being disposed of at this stage itself.

As referred to above, petitioner has relied on typed copy of the service book and so called Medical Certificate, I have examined both.

So far as service book is concerned, the photo copy of the original has been annexed by the State that clearly shows that the original entry of date of birth in the service book is that he was 30 years as per his own version. On the date of employment, date of birth was 1.9.1969. Under that entry at different time in different entry, his date of birth was recorded as 24.9.1944 as per Medical Certificate. This is Annexure A to the counter affidavit. Thus, the original entry clearly shows that he was 30 years on the date of his employment that would make his date of birth as 1.9.1939.

Now, in the rejoinder to the counter affidavit

petitioner has annexed Medical Certificate as Annexure 1 i.e. a certificate determining the age. It is a certificate of photo state, which is given to a person to join the service. The certificate is dated 24.9.1969 and that itself records that according to the person himself he is 25 years and by appearance also he looks about 30 years. Thus, calculating the date of birth to be 24.9.1944.

In my view, it is too late to correct the date of birth in the service book. Obviously, the first entry in the service book is 1.9.1939. It is only later on that an entry has been made as per Medical Certificate, which certificate does not certify the age. That cannot be taken to be the certificate of age.

In that view of the matter it is too late in the date for the petitioner to seek change of date of birth. The writ petition merits no consideration and is dismissed accordingly.

Singh

( Navaniti Prasad Singh, J.)

