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**(2011) 02 JH CK 0032**

**Jharkhand High Court**

**Case No:** Writ Petition (S) No. 5324 of 2006

Ran Vijay Prasad Yadav

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

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**Date of Decision:** Feb. 23, 2011

**Citation:** (2011) 2 JCR 322

**Hon'ble Judges:** Rakesh Ranjan Prasad, J

**Bench:** Single Bench

**Final Decision:** Allowed

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### **Judgement**

@JUDGMENTTAG-ORDER

R.R. Prasad, J.

Heard the parties.

2. Learned Counsel for the Petitioner submits that the Petitioner was appointed as Nayak in the Department of Home-guard. Ranchi on 19.8.1968. Subsequently, service record was opened on 22.1.1970, wherein the Petitioner's date of birth was recorded as 2.8.1947 on the basis of the matriculation certificate in which the same date of birth is recorded. After 29 years, the Respondent-Authority altered the Petitioner's date of birth from 2.8.1947 to 13.10.1946 without any basis and when the Petitioner, who now got retired, came to know about the change of date of birth, he has challenged the same to be bad, as the same has been done without having any power to alter the date of birth and that too without any basis and, therefore, the order, under which the date of birth has been altered being bad, is fit to be set aside.

3. A counter affidavit has been filed on behalf of the State, wherein it has been stated that at the time of entering into service, age of the Petitioner, as per the Petitioner, was recorded as 19 years. Similarly, at that time, date of birth of several persons was recorded in terms of the year and not in terms of date of birth. Subsequently, when it was detected that something is wrong with respect to age

recorded of as many as 127 persons including the Petitioner, the same was altered keeping in view the minimum age which makes a person eligible to be appointed as Nayak and, therefore, the Petitioner is not entitled to get any relief.

4. It has never been disputed that the date of birth recorded in the service book as 2.8.1947 was on the basis of the date of birth recorded in the matriculation certificate, which was produced by the Petitioner before the Authority.

5. That being so, the Authority in absence of any provision to alter the date of birth has got no jurisdiction to alter the Petitioner's date of birth recorded on the basis of the matriculation certificate and that too without there being any valid reason. Hence, the order, under which the Petitioner's date of birth has been changed to 13.10.1946, is hereby set aside.

6. Accordingly, date of birth of the Petitioner would be considered as 2.8.1947 and as such he would be entitled to get consequential benefits.

7. In the result, this writ application is allowed.