

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.886 of 2015

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Indradeo Ram S/o - Late Bal Krishun Ram R/o Village - Kurwan, P.O. - Ankorha, P.S. - Ankorha, District - Aurangabad, presently residing at Village- Mastpura, P.O.- Bagdaha, P.S.- Bodh Gaya, District - Gaya.

.... Petitioner/s

Versus

1. The Bihar State Electricity Board, Vidyut Bhawan, Bailey Road , Patna (presently South Bihar Power Distribution Company Ltd.).
 2. The Deputy Director (Accounts), South Bihar Power Distribution Company Ltd., Bailey Road, Patna.
 3. The Secretary, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna
 4. The Deputy Director (Accounts), Secretariat, Bihar State Electricity Board, Vidyut Bhawan , Bailey Road , Patna.
 5. The Executive Electrical Engineer, Transmission Division, Bodh Gaya.
- Respondent/s
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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate.
For the Respondent/s : Mr. Vinay Kirti Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 13-02-2015 Heard learned counsel for the parties as with regard to the following relief prayed in this writ application:-

"For issuance of an appropriate writ/order/direction commanding the respondents to make payment of Rs. 45000/- for over time duty performed by the petitioner between 1997-2000 along with an interest @ 12% per annum since the date the amount was due."

2. Having regard to the fact that the petitioner claims payment for over time duty for the period 1997 to 2000 by filing this writ application on 14.01.2015, it has to be dismissed only on the ground of unexplained delay and laches for a period over 15 years.

3. Let it be noted that no authority including the

Respondents are supposed to first maintain 15 years old record from which verification can be now made as to whether the petitioner had actually performed over time duty.

4. Faced with this situation, learned counsel for the petitioner has submitted that at least this Court should direct for disposal of the representation of the petitioner.

5. In the considered opinion of this Court, even this prayer of the petitioner cannot be allowed for a simple reason that if a cause of action has already lost on account of delay and laches, the High Court, under Article 226 of the Constitution of India, is not required to pass an order for reviving such cause of action by directing disposal of representation. Reference, in this connection may be usefully made to the judgment of the Apex Court in the cases of ***Union of India v. Tarsem Singh*** reported in ***(2008) 8 SCC 648***), ***C. Jacob Vs. Director of Geology and Mining and Anr.*** reported in ***2009 (10) SCC 115*** and ***Union of India and Ors. Vs. M.K. Sarkar*** reported in ***2010 (2) SCC 59*** wherein it was held as follows:-

"9. The order of the Tribunal allowing the first application of respondent without examining the merits, and directing appellants to consider his representation has given rise to unnecessary litigation and avoidable complications. The ill-effects of such directions have been considered by this Court in *C. Jacob vs. Director*

of Geology and Mining & Anr. - 2009 (10) SCC 115 :

"The courts/tribunals proceed on the assumption, that every citizen deserves a reply to his representation. Secondly they assume that a mere direction to consider and dispose of the representation does not involve any 'decision' on rights and obligations of parties. Little do they realize the consequences of such a direction to 'consider'. If the representation is considered and accepted, the ex-employee gets a relief, which he would not have got on account of the long delay, all by reason of the direction to 'consider'. If the representation is considered and rejected, the ex-employee files an application/writ petition, not with reference to the original cause of action of 1982, but by treating the rejection of the representation given in 2000, as the cause of action. A prayer is made for quashing the rejection of representation and for grant of the relief claimed in the representation. The Tribunals/High Courts routinely entertain such applications/petitions ignoring the huge delay preceding the representation, and proceed to examine the claim on merits and grant relief. In this manner, the bar of limitation or the laches gets obliterated or ignored."

When a belated representation in regard to a 'stale' or 'dead' issue/dispute is considered and decided, in compliance with a direction by the Court/Tribunal to do so, the date of such decision can not be considered as



furnishing a fresh cause of action for reviving the `dead' issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches. A Court or Tribunal, before directing `consideration' of a claim or representation should examine whether the claim or representation is with reference to a `live' issue or whether it is with reference to a `dead' or `stale' issue. If it is with reference to a `dead' or `state' issue or dispute, the court/Tribunal should put an end to the matter and should not direct consideration or reconsideration. If the court or Tribunal deciding to direct 'consideration' without itself examining of the merits, it should make it clear that such consideration will be without prejudice to any contention relating to limitation or delay and laches. Even if the court does not expressly say so, that would be the legal position and effect.

6. That being so, this writ application is dismissed only on the ground of delay and laches.

(Mihir Kumar Jha, J)

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