

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8796 of 2014

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Ramesh Mishra Son of late Umanath Mishra resident of village - Debahi Tole,
Police Station - Madhopur, District - Madhubani

.... Petitioner/s

Versus

1. The Bihar State Electricity Board (now Known as Bihar State Power Holding Company), through its Chairman - cum - Managing Director, Vidyut Bhawan, Bailey Road, Patna
2. The Director (Finance), Bihar State Power Holding Company Vidyut Bhawan, Bailey Road, Patna
3. The North Bihar Power Holding Company, Mithila Electric Supply Region, Darbhanga
4. The Executive Engineer, Electric Supply Division, Power Holding Company (Rural), Darbhanga
5. The Electrical Engineer, Electric Supply Sub - Division, Jhanjharpur
6. Assistant Electrical Engineer, Electric Supply Sub - Division, Jhanjharpur, District - Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kameshwar Prasad Gupta

For the Respondent/s : Mr. Vinay Kirti Singh

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 13-03-2015

Having regard to the fact that the petitioner claims in this writ application, filed on 8.5.2014, the dues of overtime at least prior to his date of retirement i.e. 30.6.2010, this writ application must be dismissed only on the ground of delay and laches because the maximum period that one can claim the salary or wages is only of a period of three years as was held was Apex Court in the case of ***Union of India v. Tarsem Singh*** reported in (2008) 8 SCC 648 in the following words:-

"7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to



the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of thirds parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.

8. In this case, the delay of sixteen years would affect the consequential claim for arrears. The High Court was not justified in directing payment of arrears relating to sixteen years, and that too with interest. It

ought to have restricted the relief relating to arrears to only three years before the date of writ petition, or from the date of demand to date of writ petition, whichever was lesser. It ought not to have granted interest on arrears in such circumstances”.

Here in this case, the petitioner has not given the details as to when he had worked for the overtime and how after four years of retirement, he has remembered about the overtime dues.

This writ application is, accordingly, dismissed only on the ground of delay and laches.

(Mihir Kumar Jha, J)

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