

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.11922 of 2015**

=====

Mahendra Sah Son of Late Bhullar Sah, resident of village - Belwa Ganj,  
P.S. - Laheriasarai, District - Darbhanga.

.... .... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Bihar Patna.
2. The Commissioner, Darbhanga Division, Darbhanga.
3. The Collector, Madhubani.
4. The Deputy Collector, (Establishment Section), Madhubani.
5. The Secretary, in the Office of Commissioner, Darbhanga Division, Darbhanga. null null
6. The Sub - Division Magistrate, Jaynagar, Madhubani.
7. The Circle Officer, Jaynagar Circle, Madhubani.

.... .... Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Raman Kumar Singh Thakur, Adv  
For the Respondent/s : Mr. Vivekanand Singh AC to GA8

=====

**CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA**  
**ORAL JUDGMENT**

2      06-08-2015      Heard learned counsel for the parties as with  
  
regard to the following relief prayed in this writ  
  
application:-

*“For issuance of a writ in the nature of mandamus or any other writ/writs, order/orders, direction/directions commanding the respondents particularly the respondent no. 3(the Collector, Madhubani) to provide dues regular annual increment for passing Hindi Noting & Drafting Examination i.e. dated 24.12.1974 which has been restrained without any order.*

*For direction to the respondent no. 3 to give minimum one promotion as per the Bihar Service Code after served about 37 years in the respondent department.*

*For a direction to the respondent no. 3 to calculate these amount in pay scale and finally fix pension and to its arrears to the petitioner.”*



2. It is really amazing for this Court that a grievance of the petitioner of the year 1974 ever since his increment was withheld on account of allegedly not passing Hindi Noting & Drafting Examination, has been now sought to be raised, after not only, four years of his retirement in 2011 by filing this writ petition on 20.07.2015 after four decades of the cause of action. Thus, whatever relief has been sought in this case being not only relating to payment of difference of salary for the period of 1974 to 2011 after giving him the benefit of annual increment withheld from 1974 even after settlement of the retirement benefit of the petitioner is not only grossly belated but even otherwise would actually be in teeth of the observations and directions given by the Supreme Court in the case of ***Union of India v. Tarsem Singh*** reported in ***(2008) 8 SCC 648***, wherein, in paragraph 7 and 8, it was held as follows:

*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".  
(underlining for emphasis)

3. Herein the present case, it was in view of statutory 1968 Rules that the annual increments of the petitioner was withheld ever since 1974 on his not passing the Hindi Noting and Drafting Examination. The petitioner, however, did not question such withholding of his annual increments in his entire period of service till 2011 and in fact got his all retirement benefit on the basis of last salary drawn.

4. Thus, his claim for payment of amount of withheld increments of 1974 to 2011 is clearly barred by the doctrine of delay and laches.

5. As with regard to his claim for promotion the same principle as explained in the case of Tarsem Singh (supra) will also be again applicable.

6. In fact, when a period of more than three years has also expired ever since his retirement in 2011, he cannot get any benefit of revision of his pension specially when he is even otherwise not entitled for annual increments on the basis of which he claims the revision of his pension already settled and paid in 2011.

7. That being so, this application is dismissed both on the ground of delay and laches as well as on merit.

**(Mihir Kumar Jha, J)**

Ranjan/-  

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|