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IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.411 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 9013 of 2013

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Bankey Bihari, Son of Late Bechu, resident of Gujrat Colony, P.O.: Chas, P.S.: Chas, District: Dhanbad (Jharkhand).

.... Appellant

Versus

1. The N. T. P. C. through Chief Managing Director, Corporate Centre, N.T.P.C., Scope Complex, Lodhi Road, New Delhi.
2. The Chief Managing Director, Corporate Centre, N.T.P.C., Scope Complex, Lodhi Road, New Delhi.
3. The Executive Director (N.T.P.C.), Eastern Region Head Quarter, Alankar Place, Boring Road, Patna.
4. The Senior Manager (P.A.), N.T.P.C., Kahalgaon, Bhagalpur.

.... Respondents

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Appearance:

For the Appellant/s : Mr. Raj Ballabh Singh, Advocate.
Mr. Naresh Prasad, Advocate.

For the Respondent/s : Mr. Anil Kumar Sinha, Advocate.
Mr. Abhimanyu Deo, Advocate.
Mr. Ashish Sinha, Advocate.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
And
HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)
Date: 28-11-2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 30.04.2013 whereby, the writ application filed against the order of termination was dismissed on account of delay of more than 12 years in challenging such an order.

2. The appellant was inflicted upon the punishment of removal from service on 28.01.2000. The appeal against the said order was dismissed on 11.05.2000, but the present writ application

was filed on 26.04.2013 i.e. after the delay of more than 13 years.

3. Learned counsel for the appellant submits that the appellant have been submitting representations, therefore, there is no delay in invoking writ jurisdiction of this court.

4. We find that submission of representations will not stop the running of limitation to dispute the order of punishment passed by the Disciplinary Authority. It was so held by the Supreme Court in the Judgment reported as ***Ex. Capt. Harish Uppal v. Union of India, 1994 Supp (2) SCC 195*****,** wherein the Court held as under:-

> "8. The petitioner sought to contend that because of laches on his part, no third party rights have intervened and that by granting relief to the petitioner no other person's rights are going to be affected. He also cited certain decisions to that effect. This plea ignores the fact that the said consideration is only one of the considerations which the court will take into account while determining whether a writ petition suffers from laches. It is not the only consideration. It is a well-settled policy of law that the parties should pursue their rights and remedies promptly and not sleep over their rights. That is the whole policy behind the Limitation Act and other rules of limitation. If they choose to sleep over their rights and remedies for an inordinately long time, the court may well choose to decline to interfere in its discretionary jurisdiction under Article 226 of the Constitution of India — and that is what precisely the Delhi High Court has done. We cannot say that the High Court was not entitled to say so in its discretion."

5. The writ jurisdiction of this Court is required to be

invoked without unreasonable delay. The delay of 13 years is unexplained and, therefore, the learned Single Bench rightly dismissed the writ application that the writ jurisdiction of this Court was invoked after gross delay and laches.

6. We have heard learned counsel for the appellant on merits as well. The charge sheet was served upon the appellant for failing to comply the provisions of Rule 25 of NTPC Conduct, Discipline and Appeal Rules, 1977, inasmuch as while applying for the post of Diploma Trainee (Mechanical), he discloses himself as belonging to caste Mochi (Harijan), which is recognized as Scheduled Caste, but he actually belongs to Kanhu caste which is not recognized as Scheduled Caste. It is on the said basis, the departmental proceedings were initiated against the appellant and after conduct of the enquiry in which the appellant was given due opportunity to cross-examine the witnesses and produce his defence, the enquiry report was submitted on 08.09.1998. The copy of the enquiry report was supplied to the appellant. The appellant submitted a detailed reply, a copy of which is appended with the writ application as Annexure-6. Thereafter, the order of punishment was passed and the appeal against the said order remained unsuccessful.

7. In exercise of writ jurisdiction, this Court examines the decision making process. Learned counsel for the appellant could

not point out any procedural infraction or illegality in conduct of the departmental proceedings against the appellant.

8. In view thereof, we do not find that any case is made out for interference in the order of punishment passed by the Disciplinary Authority.

9. Accordingly, the present Letters Patent Appeal is dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

Mishra

AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	02.12.2016
Transmission Date	