

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13036 of 2007

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Ram Naresh Prasad Choudhary, son of Late Dasai Choudhary, resident of House No. 126, Anandpuri, District- Patna.

.... Petitioner

Versus

1. The State of Bihar through Secretary, Energy Department, Govt. of Bihar, New Secretariat, Patna.
2. The Chief Electrical Engineer, Department of Energy, Govt. of Bihar, Patna.
3. The Electrical Superintending Engineer, Electric Works Circle, Patna.
4. Electrical Executive Engineer, Electric Works Division, Patna.
5. The Secretary, Building Construction Department, Government of Bihar, Patna.
6. The Chief Electrical Engineer, Building Construction Department, Government of Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Bindhyachal Singh,
Mr. Anurag Kr. Shukla
Mr. N.D. Choubey
Mr. Prashant Kumar, Advocates.

For the Respondents : Mr. (SC-21)

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 28-07-2017

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present writ petition has been filed for a direction to the respondents to promote the petitioner for the post of Electrician and then on the post of Supervisor (Maintenance) with effect from the dates on which the persons immediately junior to him were promoted; and for consequential reliefs.

3. During the pendency of the writ petition, I.A. No.



1664 of 2017 was filed challenging the order dated 31.08.2015 (Annexure-P/1) by which the petitioner's claim for promotion was rejected. The said Interlocutory Application was allowed to be treated as part of the present writ petition in terms of order dated 17.04.2017 passed by this Court.

4. Mr. Bindhyachal Singh, learned counsel appearing on behalf of the petitioner, makes a short submission to the effect that the impugned order dated 31.08.2015 has been passed on irrelevant considerations and does not address the main grievance of the petitioner that persons junior to him had been promoted much earlier.

5. Learned counsel for the respondents, on the other hand, submits that the petitioner has approached this Court for relief after an inordinate delay. Some of the persons said to be junior to the petitioner were granted promotion as far back as in 1979 vide letter no. 2426 dated 28.07.1979 (Annexure-3). A further two decades on, the petitioner retired in the year 1999. Yet another eight years later, the writ petition was filed on 01.10.2007. It is thus submitted that the action of the petitioner is fraught with delay and laches, disentitling him to relief by this Court in its writ jurisdiction.

6. Learned counsel for the petitioner in reply submits that as a matter of fact he has regularly been filing representations before the authorities from time to time. The petitioner's name had even been recommended by the Electrical Superintending Engineer in



his letter dated 05.01.2006 (Annexure-9) and again by letter dated 06.07.2006 (Annexure-11). It is further submitted that in any event the impugned order has been passed without reference to the delay on the part of the petitioner and as such the validity of the order has now to be tested on the grounds appearing therein alone.

7. Having heard the parties and on a consideration of the materials on record, this Court is not inclined to interfere in the matter. It is not in dispute that the order of promotion by which the juniors to the petitioner had been promoted was issued as far back as in the year 1979 after which the petitioner claims to have been filing regularly representations before the concerned authorities. Apart from such plea, no other grounds have been pleaded for not approaching this Court despite relief not forthcoming from the authorities. The petitioner thereafter retired two decades later in the year 1999 and even thereafter he waited for a further period of 8 years before approaching this Court with the present writ petition. This Court is of the view that mere filing endless representations before the authorities cannot constitute a good ground for explaining the delay in approaching this Court and merely because the authorities have passed the impugned order dated 31.08.2015 without rejecting the petitioner's claim on the ground of delay would not stand in the way of this Court to consider the aspect of delay while exercising its writ jurisdiction. The inordinate delay is writ large on the face of it whether



or not the authorities have adverted to this aspect of the matter.

8. A Division Bench of this Court in *Bal Krishna Prasad Vs. The State of Bihar and Ors.*, 2015(4) PLJR 597 took note of the considerable delay by that petitioner in approaching this Court in connection with his claim for grant of supertime scale, and held as follows:

“6. It is well settled that delay and laches are important factors to be borne in mind by the High Courts, while exercising discretionary power under Article 226 of the Constitution of India and it may refuse to invoke extra ordinary jurisdiction if there is negligence and omission on the part of the petitioner to assert his right. Though no period of limitation is prescribed for moving before the High Court, invoking its extra-ordinary remedy under Article 226 of the Constitution of India, it is settled law that if there is no satisfactory explanation for inordinate delay, the High Court may reject the petition. The Supreme Court in case of “**Naib Subedar Lachhman Dass vs. Union of India and Others**” [A.I.R. 1977 Supreme Court 1979], while dealing with the question as to what can be regarded as reasonable time within which an aggrieved person should approach the High Court, held that so far as the service matters are concerned, as for example, for promotion, the person aggrieved should approach the Court within six months or, at least, one year of the promotion.

7. The reference may also be made to other decisions of the Supreme Court in cases of “**Chennai Metropolitan Water Supply and Sewerage Board and Other vs. T.T. Murali Babu**” [(2014) 4 Supreme Court Cases 108] and “**S.S.**



Balu and Another vs. State of Kerala and Other” [(2009) 2 Supreme Court Cases 479], where belated claims have been held to be not maintainable in a proceeding under Article 226 of the Constitution of India.”

9. In the above circumstances, this Court is not inclined to grant relief to the petitioner in exercise of its extra ordinary writ jurisdiction. The writ petition accordingly stands dismissed.

(Vikash Jain, J)

Md. Ibrarul/BT

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