

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 11420 of 2012

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Om Prakash Chowrasia S/O Late Dhuplal Chowrasia R/O Mohalla- Salempur, P.O.
& P.S.- Barh, Distt.- Patna, At Present C/O Sri Prabhu Singh, Bhupat Nagar, P.O.-
Dhelma, P.S.- Ram Krishna Nager, Distt.- Patna

.... Petitioner

Versus

1. The State of Bihar
 2. The Director, Animal Husbandry, Bihar, Patna
 3. The Deputy Director, Animal Husbandry, Bihar, Patna
 4. The Commissioner, Deptt. of Animal Husbandry, Bihar, Patna
 5. The Assistant Director Minor Animal Development Project, Nalanda, Bihar
- Respondents

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Appearance :

For the Petitioner/s : Mr. Bipin Kumar
For the Respondent/s : Mr. Abbas Haidar SC-6

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 24-05-2017

Heard Sri Bipin Kumar, learned counsel for the petitioner
and Mr. Abbas Haidar, learned Standing Counsel – 6.

2. The petitioner, who superannuated as Assistant Fodder Development Officer w.e.f. 29-02-2004, has approached this Court invoking its writ jurisdiction under Article 226 of the Constitution of India by filing the present writ petition in the month of July, 2012 for following reliefs:-

- (A) That this is an application for issuance of an appropriate Writ or Writs, order or direction to the respondent authorities to count the seniority and give the promotional benefit of the petitioner with effect from 01.11.1969 by issuing an appropriate order or direction.
- (B) That an appropriate order of direction may be issued to the Respondent authorities to



pay the arrear of salary with 18% interest.

3. It was submitted by learned counsel for the petitioner that petitioner was initially appointed as Skill Attendant in the Animal Husbandry Department, Govt. of Bihar in the Central Poultry Farm, Patna. Subsequently, as pleaded, the petitioner was converted from Skill Attendant to Pasu Dhan Assistant by letter dated 14-06-1969 and he was posted in Badhiya Karan Planning at Ara by way of converting his post from Skill Attendant. He discharged his duty as Pasu Dhan Assistant in the pay-scale of Rs. 105-155/- from 01-11-1969 to 1973. However, in the year 1973, as stated in paragraph – 8 of the writ petition, his pay-scale was reduced and his status was changed from Pasu Dhan Assistant to the Skill Attendant and he was transferred from Ara to Buxar in the capacity of Skill Attendant. It has been admitted in the writ petition that subsequently, he was promoted and finally, he superannuated in the year 2004, as Assistant Fodder Development Officer.

4. At the very outset, the learned State counsel has raised an objection that the claim, being stale, is liable to be rejected.

5. In reply to objection raised by learned State counsel, learned counsel for the petitioner, placing reliance on a judgment of the Apex Court reported in **AIR 1991 SUPERME COURT 424 (A.**



Sagayanathan and others vs. Divisional Personal Office, S.B.C. Division, Southern Railway, Bangalore), submits that only on the ground of delay, if there is reasonable cause, the writ petition may not be dismissed. He submits that since illegally, the pay-scale of petitioner was reduced, the petitioner is entitled to get benefit w.e.f. 01-11-1969. He has also placed reliance on two unreported orders passed by this Court, vide **Annexure – 2** and **2 ‘a’** to the writ petition i.e. order passed in C.W.J.C. No. 2281 of 2004 and C.W.J.C. No. 2351 of 2010 respectively. On aforesaid ground, a prayer has been made to allow the writ petition.

6. Besides hearing learned counsel for the parties, I have also perused the materials available on record. Without delving into the merit of the case, the Court is of the opinion that the writ petition is fit to be rejected, primarily; on the ground of delay itself. Even in the writ petition, though statement was made that petitioner was appointed as Skill Attendant, it has not been indicated as to what was the date of his initial entry in the service. Even though, it has been stated that his post from Skill Attendant to Pasu Dhan Assistant was converted, no such order has been brought on record. In paragraph – 8 of the writ petition, a specific stand has been taken that in the year 1973, while he was transferred from Ara to Buxar, his status was



changed from Pasu Dhan Assistant to Skill Attendant. However the petitioner has not brought on record the said order nor there is any prayer for quashing of such order. If for the time being, it is assumed that any cause of action arose, that arose in the year 1973, and even thereafter, he was granted promotion and while holding promotional post i.e. post of Assistant Fodder Development Officer, he superannuated w.e.f. 29-02-2004. Till the date of his retirement, he never bothered to approach this Court and after more than 8 years from his superannuation, the petitioner has approached this Court by filing the present writ petition. So far as judgment and order on which reliance has been placed by learned counsel for the petitioner in view of pleading in the present writ petition and peculiar facts of the case, the petitioner may not get any benefit from such judgment/order.

7. Considering the fact that petition is not supported with any appropriate document nor specific relief has been sought for, there is no reason to entertain this petition. From the statement made in the writ petition, it appears that for the first time the petitioner felt aggrieved in the year 1973 but earlier he never approached this Court. It is settled that if one slumbers over his right for several years, in such cases, writ jurisdiction may not be invoked.

8. In view of particular facts and circumstances of the



present case, I do not find any ground to exercise writ jurisdiction in favour of petitioner.

9. The writ petition stands dismissed.

(Rakesh Kumar, J.)

Anay

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26.05.2017
Transmission Date	N/A

