

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3973 of 2017

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1. Tapeswar Baitha, son of Late Bindeshwar Baitha, resident of Mohalla- Nauratanpur Sanjay Nagar, P.O.- Patna, G.P.O. P.S. Kankarbagh, District- Patna.
 2. Suresh Kumar Chaudhary, Son of Hari Lal Chaudhary, resident of Village- Harnichak, P.O. Anisabad, P.S. Beur, District- Patna.
 3. Santosh Kumar Chaudhary, Son of Late Hira Lal Prasad, resident of C/o S.P. Bariyar, Khas Mahal Road No. 2, P.S. Jakkanpur, District- Patna.
 4. Hira Lal Bhakta, Son of Bedami Bhakta, resident of Mohalla- Ram Krishna Nagar, P.O. New Jaganpura, P.S. Ram Krishna Nagar, District- Patna.

.... Petitioners

Versus

1. The Union of India through the Chief Postmaster General, Bihar Circle, Patna.
2. The Director (S.R. & Legal), Department of Post, Dak Bhawan, Sansad Marg, New Delhi.
3. The Assistant Account Officer, Admn. 1, Office of Director of Accounts (Postal), G.P.O. Campus Patna.
4. P.K. Ravi, A.A.O. Office of Postmaster General, Ranchi (Jharkhand).

.... Respondents

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Appearance :

For the Petitioners : Mr. Dinu Kumar, Advocate
Ms. Ritika Rani, Advocate
For the Respondents : Mr. S.D Sanjay, Additional Solicitor General
Ms. Chaya Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 27-04-2017

Heard Sri Dinu Kumar, learned counsel for the petitioner and Sri S.D. Sanjay, learned Additional Solicitor General representing Union of India.

2. There has to be some co-relation between the



time when the cause of action has arisen and when a citizen or a litigant asserts his right when there is violation of either statutory kind or constitutional kind. Merely because based on certain developments which may have taken place a decade and a half later, nobody can be permitted to agitate an issue with regard to grant of benefit of promotion to a man, issued way back on the basis of examination, for which advertisement was issued in the year 1995 and examination was held in the year 1997, by being allowed to claim that he had performed better in the examination than the person who had been granted benefit of promotion.

3. The Tribunal, after considering all the aspects of the matter, has given its reason for refusing to entertain the O.A. application in paragraph nos. 9 to 11 which reads as under: -

"9. Even if it is argued that the benefit of the Tribunal's order should be extended to the applicant, the applicant has approached the Tribunal after a delay of about 7 years of that order. The argument that he came to know of the judgment much later can be straightway rejected because all the applicants were departmental employees and it is expected that a man of ordinary prudence would be aware of such an important judgment. Such plea of late knowledge of a court's order came precisely



for discussion in the **State of Karnataka Vs. S.M. Kotrayya & Ors [1996 (6) SCC 267]** in which the Hon'ble Apex Court held as follows:-

"Although it is not necessary to give an explanation for the delay which occurred within the period mentioned in sub-sections (1) or (2) of Section 21, explanation should be given for the delay which occasioned after the expiry of the aforesaid respective period applicable to the appropriate case and the Tribunal should satisfy itself whether the explanation offered was proper."

10. In **U.P. Jal Nigam & Others Vs. Jaswant Singh and others [2006 11 SCC 464]**, the Hon'ble Supreme Court has held that when a person is not vigilant of his rights and acquiescence with the situations, his writ cannot be heard after a couple of years on the ground that the same relief was granted to a person similarly situated who was vigilant of his rights.

11. In conclusion, the legal position as to the cause of action is very clear. The cause of action does not arise from the judgment passed in the case of a similarly situated person, but it arises from the date when the person claims that his rights were infringed or he was entitled to some benefits under some circulars. Thus, in the present case, the cause of action arose at least 14 years before the OA was filed. It is also noted that even before the authorities the applicants started raising their grievances in 2012."

4. The rational and reasoning given by the



Tribunal based on the settled principles by the Hon'ble Apex Court in such matter is a complete answer as to why the Tribunal refused to exercise its discretion or grant of relief to the petitioner. The decision of the Tribunal does not suffer from any infirmity.

5. Thus, we find no merit in this application. This writ application is, accordingly, dismissed.

(Ajay Kumar Tripathi, J.)

(Nilu Agrawal, J.)

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