

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.2092 of 2015

In

Civil Writ Jurisdiction Case No.2856 of 2014

Sakaldeep Manjhi son of Late Ram Dutt Manjhi, resident of village and P.O.-
Rewari, P.S.- Kopa, District- Saran (Chapra), retired while working as an
Asistant Teacher from Govt. of Middle School Kachnar, anchal- Revilganj,
District- Saran (Chapra).

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Bihar, Patna.
2. The Director, Primary Education, Bihar Patna.
3. The District Magistrate, Saran at Chapra
4. The District Education Officer, Saran at Chapra
5. The District Programme Officer (Establishment),Saran at Chapra.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Umesh Kumar Mishra, Advocate
For the Respondent/s : Mr. A.K. Keshari- AAG 11

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 15-11-2017

Re.: Interlocutory Application No.9177 of 2015

Delay of 61 days in filing of the Letters Patent Appeal is
condoned.

Interlocutory Application stands allowed and disposed of.

Re.: Letters Patent Appeal No.2092 of 2015

Seeking exception to an order dated 10.02.2015 passed by the
Writ Court in Civil Writ Jurisdiction Case No.2856 of 2014
holding that stale claim made by the petitioner cannot be



considered now after such a long period of time, this appeal has been filed under Clause 10 of the Letters Patent.

Even though the order passed by the learned writ Court does not specify details on the basis of which the claim can be termed as stale one, on going through the records, we find that the appellant was working in the Department and retired from the post of Assistant Teacher on 31.07.2006. From the records, it is further seen that six years after his retirement, for the first time on 12.12.2012 vide Annexure-1, the petitioner made a representation claiming benefit of pay fixation and all other reliefs right from 18.05.1972 and the claim of the petitioner was based on certain orders passed in a writ petition by various employees right from the year 1995 up to 1996. It is, therefore, clear from the aforesaid narration of fact that the petitioner was waiting and watching all the happenings when writ petitions were going on and orders were passed by this Court and waited till his retirement in the year 2006. Thereafter, he slept over the matter for more than six years and from the record it is seen that it was only in the year 2012, he raised a claim.

Learned counsel when confronted with all these questions argues that the petitioner had been making repeated representations and, therefore, his claim is sustainable.



It has been held by Hon'ble Supreme Court in the case of **S.S.Rathore Vs. State of M.P.**, AIR 1990 SC 10, that if the repeated representations are not addressed within six months, then the cause of action accrues and if the delinquent sits over the matter and does not take action within six months from the filing of the representation, it is a stale claim which cannot be considered in a petition under Article 226 of the Constitution.

Taking note of the totality of the facts and the law as laid down by the Supreme Court in the case of **S.S. Rathore** (supra), we are of the considered view that the petitioner's claim was stale. He slept over the matter and in rejecting the claim on such consideration, the learned Writ Court has not committed any error. We see no reason to make any indulgence into the matter. The appeal is dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
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