

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2241 of 2016

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Satnarayan Rai Son of late Balo Rai Resident of Village+Po- Jokiya, Ps-
Manjhaul, District Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Principal Secretary, Education Department, Government of Bihar, Patna.
3. District Education officer, Araria, District Araria.
4. District Programme officer(Establishment), Araria, District Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Prasad Singh
For the Respondent/s : Mr. Suresh Kumar, AC to GP-1

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 20-02-2018 Heard learned counsel for the petitioner and the learned
counsel appearing on behalf of the State.

Learned counsel for the petitioner submits that the petitioner superannuated in the year 2003 and he was entitled to promotion under the Rules. The respondents have not considered the case of the petitioner as a result of which the petitioner has not been granted promotion.

Learned counsel for the State submits that the petitioner has approached before this Court after 10 years of retirement and as such, the writ petition is barred by delay and laches. The salary and pension of the petitioner or less payment every month is continuing cause of action on account of recurring loss. Due to long pending salary revision dispute and A.C.P. including the



non-consideration of promotion may have resulted in receiving less amount of pension every month.

In view of the judgment of the Apex Court reported in case of **Union of India & Ano. Vs. Tarsem Singh** reported in **(2008)8 SCC 648**. The payment of salary and pension creates cause of action to the employee every month and as such, it is a continuing cause of action and delay and laches has no relevance as cause of action in the matter is still continuing for grant of monetary benefits, it is true that the Court cannot issue a direction for payment of such monetary benefits beyond a period of three months from the date of the filing of the writ petition but petitioner cannot be non suited on the ground of delay and laches.

In view of the judgment of the Apex Court in the case of **Union of India & Ano. Vs. Tarsem Singh** reported in **(2008)8 SCC 648**, the writ petition is disposed of with a direction to the respondents to take final decision on the claim of the petitioner for promotion and if the petitioner is found entitled for grant of such promotion, the benefit of such promotion in the nature of revised pension be made available to the petitioner. Final decision in this regard must be taken by the respondent No. 4.

The learned counsel for the State submits that the petitioner



is not eligible for the same.

Mr. Jitendra Prasad Singh, learned counsel for the petitioner submits that the petitioner has worked sincerely for more than 18 years even after grant of Junior Selection Grade in the year 1981 and, as such, he is entitled for higher scale but the same has not been granted to the petitioner without any valid reason.

Without going into the merits of the claim and objection of the respondents, the writ petition is disposed of with a direction to the respondent No. 3 to take final decision on the claim of the petitioner within a maximum period of four months from today and in case, the claim of petitioner is found genuine, necessary order be passed by the respondent No. 3 for payment of revised pension on account of the decision of the petitioner for promotion.

With the aforesaid, the writ petition is disposed off.

(Anil Kumar Upadhyay, J)

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