

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1545 of 2015

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Akhtar Jamil. S/o Nehal Ahmad. R/o 4A, Royal Elegance Apartment, Ashiana Road, P.S.- Shastrinagar, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary Government of Bihar, Patna.
2. The Secretary, Bihar Public Senior Commission, Patna.
3. The Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
4. The Joint Secretary, Water Resources Department, Govt. of Bihar, Patna.
5. The Additional Secretary, Water Resources Department, Govt. of Bihar, Patna.
6. The Under Secretary, Water Resources Department, Govt. of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Syed Firoz Raza, Advocate
For the State	:	Mr. Amresh Kumar Sinha, AC to GA 1
For BPSC	:	Mr. Ashok Kumar Singh, Sr. Advocate
		Mr. Sanjay Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 02-05-2018

Heard learned counsel for the petitioner and the respondent State.

2. The writ petition has been filed challenging the final gradation list dated 03.01.2008 wherein the petitioner claims that he has not been placed at his due position which he claims to be at serial no. 36 whereas he has been placed at Serial no. 43.

3. This Court would find that final gradation list of Assistant Engineers (Civil) in the Water Resources Department was published on 09.04.2007. The petitioner had made his objection dated



15.06.2007. The same was never challenged.

4. From the records it appears that as the cadre bifurcation necessitated the revision of the gradation list, an exercise was taken in the year 2007 when a provisional gradation list of Assistant Engineers (Civil) of the Department was prepared on 09.04.2007. The same was objected by the petitioner by his communication dated 15.06.2007 which is Annexure 5 to the writ petition. Pursuant thereto the final gradation list dated 03.01.2008 came to be published wherein the petitioner had been placed at serial no. 43. No objection has been made by the petitioner after publication of the final gradation list dated 3.1.2008 and directly the petitioner has approached this Court by filing the writ petition in the year 2015.

5. As of today when the matter is being taken up nearly 10 years have lapsed since publication of the final gradation list which has never been objected by the petitioner in the department.

6. In view of such inordinate delay, and laches on part of the petitioner in not taking any steps since 2008, this Court would find that in order to grant relief to the petitioner, the settled seniority and position of the other persons empanelled in the gradation list above the petitioner would be adversely affected. The third party rights have accrued and crystallized during the seven years prior to filing of the writ petition. Since no objection whatsoever was raised by the



petitioner, the belated claim of the petitioner cannot be entertained under Article 226 of the Constitution of India.

7. In view of the inordinate and unexplained delay and since the 3rd party rights have accrued and crystallized, the claim of the petitioner is clearly barred by delay and latches.

8. The writ petition is therefore, devoid of merits and the same is dismissed.

Prakash/-

(Madhuresh Prasad, J)

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

