

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.858 of 2016**

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Santosh Kumar, son of Late Laxmi Narayan, resident of Village- Anandbag  
Karpi, P.O. & P.S.- Karpi, District- Arwal. ... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Revenue & Land Reforms,  
Government of Bihar, Patna.
3. The Commissioner, Magadh Division, Gaya
4. The District Officer, Jehanabad, P.O. Jehanabad.
5. The Deputy Collector, In-charge Establishment, Section, Collectorate,  
Jehanabad.
6. The Additional Collector-cum-Enquiry Officer, Jehanabad.

... .. Respondent/s

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**Appearance :**

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|----------------------|---|-------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Siya Ram Sahi, Sr. Advocate<br>Mr. Ghanshyam Sharma, Advocate |
| For the Respondent/s | : | Mr. Md. Raisul Haque, SC 10<br>Mr. Md. Obaidullah, AC to SC 10    |

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**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**  
**ORAL JUDGMENT**

**Date : 03-01-2019**

Heard learned counsel for the petitioner and the respondents.

2. Against an order of compulsory retirement the petitioner as per the order passed by the Appellate Authority himself has preferred an appeal bearing Service Appeal no. 99 of 2015 on 01.06.2015.

3. The order of compulsory retirement appealed against is dated 04.12.2014. When the same has been served on the petitioner, is not apparent from the records of the writ petition. Rule 25 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for short 'Bihar CCA Rules, 2005) provides the period of limitation for preferring an appeal to be 45 days from the date on which a copy of the order appealed against is delivered to the appellant. The date of



delivery of the order dated 04.12.2014 against which appeal has been preferred is not apparent from the records. However, filing of the appeal within six months of the order is apparent from the order passed by the Appellate Authority himself. The order sheet of Service Appeal no. 99 of 2015 (Annexure 5) also reveals that the petitioner has also filed an application for condoning the delay in filing the appeal.

4. On 10.09.2015 the appeal filed by the petitioner has been dismissed by recording an order as follows:-

“अपीलकर्ता – उपस्थित। The appeal has been filed after a delay of more than a year, Hence dismissed.”

5. The order passed by the Appellate Authority dated 10.09.2015 is a glaring example of an unreasoned order which shows total non-application of mind. The manner in which the Appellate Authority has rejected the petitioner's petition for condonation of delay as well as the appeal shows abdication of duty to consider cast upon the Appellate Authority. No reason whatsoever has been assigned for rejecting the limitation petition or the appeal.

6. Assigning of reasons has been emphasized by the Courts time and again. Recently a Division Bench of this Court in the case of **Hasan Muzahid vs. The Bihar State**



**Electricity Board & Ors.** reported in **2015 (4) PLJR 435** has emphasized the importance of assigning reasons. Non-assigning of reasons renders the provision of appeal itself to be redundant.

7. Apart from the fact that no reason has been assigned by the Appellate Authority, this Court would observe that the reason assigned by the Appellate Authority is grossly perverse. The reason which has been assigned is that the appeal has been filed after delay of more than a year whereas from the same order sheet (Annexure 5) it is apparent that the appeal was filed on 01.06. 2015 i.e., within six months of the date of the order dated 04.12.2014.

8. For the reasons indicated herein above, this Court would observe that the Appellate Authority should consider the petitioner's appeal on merits and dispose it off by a reasoned and speaking order in accordance law. The entire exercise should be completed within a period of three months from the date of receipt/production of a copy of this order.

9. Writ petition is disposed off.

**(Madhuresh Prasad, J)**

Prakash/-

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