

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7451 of 2015

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Krishna Lal Gupta S/o Late Ram Das Prasad. At Mahabir Asthan, Sadar Bazar, Jagdishpur, P.S.- Jagdishpur, Dist.- Bhojpur.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Secretary, Information Technology, I.T. Bhawan, Bailey Road, Patna.
3. Bihar State Electronic, Development Corporation Ltd., through its Managing Director, Beltron Bhawan
4. Managing Director, Bihar State Electronic Development Corporation Ltd., Beltron Bhawan, Shastrinagar, Patna
5. Managing Director, Beltron Video System Ltd., Beltron Bhawan, Shastrinagar, Patna.
6. The General Manager, Bihar State Electronic Development Corporation Ltd., Beltron Bhawan, Shastrinagar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Sinha
For the Respondent/s : Mr.GA 9- Anil Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 07-08-2019

Heard counsel for the petitioner and counsel for the respondents.

Petitioner along with others was appointed under different subsidiary company and units of Bihar State Electronic Development Corporation.

Case of the petitioner is that others who are appointed on daily wages have been regularized in the year 2008 i.e. 19.12.2008. However, petitioner has not been regularized.



Counsel for the respondents has tried to convince the court that the petitioner was not working under Bihar State Electronic Development Corporation and as such no relief can be claimed against Bihar State Electronic Development Corporation and the petitioner was working under Beltron Video System.

Having regard to the fact that writ petition claiming regularization was filed in the year 2015 claiming parity with others who were regularized as far as back in the year 2008. This court had earlier under order dated 17.07.2019 required the petitioner to place on record the date on which he came to know about regularization of the persons to whom he is claiming parity.

Petitioner by Annexure 12 to the supplementary affidavit has brought on record the fact that the petitioner was informed about regularization of others in the year 2008 upon his application under Right to Information Act in the year 2011 itself. Even thereafter petitioner did not approach this court till 2015. Such belated claim of the petitioner in the background of the representation being filed is not worth consideration in the instant proceedings. Also document has been placed by the petitioner on record in support of his claim.



Instant proceedings under Article 226 of the Constitution of India is an exercise of equitable jurisdiction and a person cannot approach this court belatedly at his own sweet will.

In this connection, this Court would refer to the decision of the Apex Court in the case of Uttaranchal & another vs. Shiv Charan Singh Bhandari & others reported in (2013) 12 SCC 179.

In the said judgment the apex court has considered its earlier pronouncements in this regard and laid down the law regards exercise of jurisdiction under Article 226 of the Constitution of India when petitioner is not vigilant of his rights and approaches the court as and when he awakes from slumber at his own leisure. This court would consider it useful to reproduce paragraphs 26 and 27 of the judgment of Shiv Charan Singh Bhandari (supra).

Paragraph 26. *“Presently, sitting in a time machine, we may refer to a two-Judge Bench decision in P.S. Sadasivaswamy v. State of T.N. [(1975) 1 SCC 152 : 1975 SCC (L&S) 22] , wherein it has been laid down that: (SCC p. 154, para 2)*

“2. ... A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. It is not that there is any period of limitation for the courts to exercise their powers under Article 226 nor is it that there can never be a case where the courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and



who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters.”

Paragraph 27. *“We are absolutely conscious that in the case at hand the seniority has not been disturbed in the promotional cadre and no promotions may be unsettled. There may not be unsettlement of the settled position but, a pregnant one, the respondents chose to sleep like Rip Van Winkle and got up from their slumber at their own leisure, for some reason which is fathomable to them only. But such fathoming of reasons by oneself is not countenanced in law. Anyone who sleeps over his right is bound to suffer. As we perceive neither the Tribunal nor the High Court has appreciated these aspects in proper perspective and proceeded on the base that a junior was promoted and, therefore, the seniors cannot be denied the promotion.”*

In the circumstance, this court is not inclined to issue any direction upon the respondents for regularization of the petitioner.

Writ petition is dismissed.

(Madhuresh Prasad, J)

s.hassan/-

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