

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 17995 of 2011

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Bijay Kumar Prasad S/o Sri Sheo Kumar Prasad, R/o House No A-17,
Sadhanapuri, Gardanibagh, P.O.- G.P.O., District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Secretary, Registration Excise And Prohibition Department, Bihar, Patna
3. The Excise Commissioner, Bihar, Vikash Bhawan, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : M/s Ram Badan Mahto, Manoj Kr Manoj, Advs
For the Respondent/s : Mr Upendra Kr Singh, AC to GA VIII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 04-11-2019

Heard learned counsel for the petitioner as well as the
learned State Counsel.

2 Claim of the petitioner in the instant proceeding is for
payment of salary for the post of Excise Inspector for the period
01.03.1988 to 02.09.1994 when the petitioner had discharged
duties of the post of Inspector (Excise). Another claim is raised in
respect of the period between 14.08.2003 to 31.05.2004. During
this period, the petitioner had performed the functions of
Superintendent (Excise) while substantially being posted as an
Excise Inspector. The said claims have been raised by the
petitioner for the first time in the year, 2011 by filing the writ
petition.



3 In between, the petitioner has retired in the year, 2004 itself. Seven years thereafter, the instant writ proceedings have been instituted claiming benefit of the higher post on which the petitioner had discharged the duties by way of interim arrangement.

4 The orders directing the petitioner to assume the higher duties did not grant emoluments of the higher post. Petitioner had discharged the functions without any objection and had not raised any claim during service period. Much thereafter, i.e., seven years later, the writ petition has been filed and stale claim has been sought to be raised as per his own convenience.

5 The law in this regard is well settled. Remedy of writ jurisdiction is meant for persons who are diligent for their rights.

6 Petitioners cannot be permitted to sleep like Rip Van Winkle and awake from their slumber at their own convenience. In this connection, this Court would consider it useful to quote paragraphs 27 and 28 of the judgment of the Apex Court in the case of State of Uttaranchal & Another -Versus- Shiv Charan Singh Bhandari & Others, (2013) 12 Supreme Court Cases 179.

“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 reasons 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.

28. Remaining oblivious to the factum of delay and laches and granting relief is contrary to all settled principles and even would not remotely attract the concept of discretion. We may hasten to add that the same may not be applicable in all circumstances where certain categories of fundamental rights are infringed. But, a stale claim of getting promotional benefits definitely should not have been entertained by the Tribunal and accepted by the High Court.”

7 The inordinate delay and the fact that the petitioner has never raised the claim before the Authorities together constitute delay and laches both.

8 In view of the said position, this Court is not inclined to entertain the claim of the petitioner under writ jurisdiction.

9 Writ petition is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	21.11.2019
Transmission Date	NA

