

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16759 of 2018

Shivjee Rai Son of Late Munni Rai, resident of Village- Bhopalpur, P.S.-
Tarari, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Principal Secretary, Water Resources Department then Irrigation Department-Sone Cannal, Govt. of Bihar, Patna
3. Engineer in Chief, Water Resources Department then Irrigation Department-Sone Cannal, Govt. of Bi
4. Chief Engineer, then Irrigation Department-Sone Cannal, now Water Resources Department, Dehri on Sone, Rohtas
5. Secretary Pravaidikh, Chief Engineer office, Irrigation Srijan, Water Resources Department, Dehri.
6. Superintending Engineer, the Irrigation Department- Sone Cannal, now Water Resources Department, Ara, Bhojpur.
7. Executive Engineer, then Irrigation Department-Sone Cannal, now Water Resources Department, Ara, Bhojpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Deepak Kumar Sinha, Advocate
For the Respondent/s : Mr. Harish Kumar - GP8

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 21-12-2021

Heard learned counsels for respective parties.

In the instant petition, petitioner has prayed for the
following reliefs:-

*“(i) For quashing of
order dated 22.11.1994 vide Memo
No. 66 passed by Director, Revenue
Administration, Water Resources
Department, Govt. of Bihar, Patna
with regard to petitioner being a
Irrigation Revenue Inspector' by
which petitioner was dismissed from
service through Departmental*



Preceeding without giving proper opportunity to the petitioner; even lot supplied the memo of charge, order related to initiating departmental proceeding, charge, documents related to allegations and in absence of show cause as well as cross examination of witnesses present order was passed arbitrary against the law though petitioner was acquitted in criminal case on 13.02.2018 on the same allegation vide Nawanagar, P.S. Case No. 6/1990 offence under section 409, 420, 467, 468, 477, 477A and 379 I.P.C. in absence of evidence passed by Judicial Magistrate I class, Buxar, Bihar.

(ii) To further command and direct the respondents to pay the arrears of salary, dues of suspension period and other consequential benefit to the petitioner immediately after adding the period of Suspension and departmental proceeding into leave by way of quashing of above mention dismissal order.

(iii) For payment of entire retiral dues of petitioner i.e. provident fund, earn leave, gratuity, etc because petitioner was retired from service during pendency of the criminal case. IV. For which petitioner is entitled for.”

Petitioner has assailed the order of dismissal dated 22.11.1994 vide Memo No. 66 passed by the Director, Revenue



Administration, Water Resources Department, Govt. of Bihar,
Patna.

Petitioner while holding the post of Irrigation Revenue Inspector was subjected to parallel proceedings. In a disciplinary proceedings it was concluded in imposing penalty of dismissal from service on 22.11.1994. Insofar as criminal proceedings are concerned, it was pending consideration till 13.02.2018, the date on which he was acquitted in Nawanagar P.S. Case No. 06/1990 for the offences punishable under Sections 409, 420, 467, 468, 477, 477A and 379 of the Indian Penal Code passed by Judicial Magistrate, 1st Class, Buxar, Bihar.

Parallel proceedings are two independent proceedings which are lodged against the petitioner. Outcome of criminal proceedings departmental proceedings are entirely different. Criminal proceedings were lodged against alleged offences under the Indian Penal Code whereas departmental proceedings were initiated with reference to alleged misconduct, therefore, they are two separate proceedings therefore awaiting result of the criminal proceedings and challenging the order of dismissal dated 22.11.1994 without explaining the delay and laches the present petition cannot be entertained and it is to be rejected at threshold. Hon'ble Apex Court decision in the case of **State of Jammu and**



Kashmir Vs. R.K. Zalpuri and others reported in **AIR 2016**

Supreme Court 3006 held as under:-

*“20. Having stated thus, it is useful to refer to a passage from **City and Industrial Development Corporation v. Dosu Aardeshir Bhiwandiwalla and Others**, wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus:-*

“The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;

(b) the petition reveals all material facts;

(c) the petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by any valid law; and host of other factors.”

One of the principle laid down in the aforesaid decision is relating to entertaining petition under Article 226 of the Constitution with reference to delay and laches. In the present case



delay and laches is to be taken note off. The petitioner has not explained the undue delay and laches from 22.11.1994 till the date on which the present petition is presented.

In the light of these facts and circumstances, the petitioner has not made a case. Accordingly, the present writ petition stands dismissed.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

