

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10260 of 2021

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Amit Ranjan Son of Late Anant Kumar Srivastava, Resident of Baraheta
Laheiyasarai, P.S. - Bahadurpur, District - Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Government of Bihar, Patna.
2. Collector-cum-District Magistrate, Darbhanga.
3. The Sub-Divisional Officer, Birol, Darbhanga.
4. The Block Development Officer, Kusheshwarsthan East, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nivedita Nirvikar, Advocate
For the Respondent/s : Mr. Lalit Kishore (Ag)

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

Date : 29-11-2021

Heard learned counsel for the parties.

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

“A. For issuance of writ in the nature of certiorari to quash the order contained in Memo No. 02-01/2017-66 dated 19-01-2021 issued under the signature of Respondent No.-2 herein the District Magistrate and Collector, Darbhanga whereby and whereunder the petitioner has been dismissed from the service.

B. For issuance of a writ/s, an order/s, a direction/s in the nature of mandamus commanding upon the respondents to give continuity of past services to the petitioner after reinstating him and to give him seniority in service with all consequential benefits.

C. For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”



Unisputedly, petitioner has statutory remedy of appeal before the appellate authority in terms of the relevant provision provided under the regulations/rules.

Apex Court in the case of ***Jammu and Kashmir vs R.K. Zalpuri and Others AIR 2016 Supreme Court 3006 in paragraph 20*** held as under:

“Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation v. Dosu Aardeshir Bhiwandiwalla and Others {(2009) 1 SCC 168} 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 by the Apex Court in the aforesaid case is before entertaining writ petition one must exhaust statutory remedy of appeal available to him or her. Undisputedly, in the present case petitioner has not exhausted remedy of appeal.



Accordingly, present petition stands dismissed as premature reserving liberty to the petitioner to prefer an appeal before the appellate authority. The appellate authority is hereby directed to decide the petitioner’s appeal at the earliest.

At this juncture, learned counsel for the submitted that there would be delay in presenting the appeal. The appellate authority is hereby directed to take note of the delay read with the reasons and proceed to consider in accordance with law. He is also hereby directed to take note of Section 14 of the Limitation Act 1960.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.12.2021
Transmission Date	NA

