

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.19533 of 2016**

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Tanuk Lal Prasad Son of Late Ram Swaroop Mandal, Resident of Village  
Khataha, P.O. Gopalpur, P.S. Gogri, District Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Bihar Vidhan Sabha through its Secretary, Patna.
3. The Under Secretary, Bihar Vidhan Sabha, Secretariat, Patna.
4. The Deputy Secretary, Bihar Vidhan Sabha, Secretariat, Patna.
5. The Sectional Officer, Bihar Vidhan Sabha, Patna.

... .. Respondent/s

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**Appearance :**

|                       |   |                                |
|-----------------------|---|--------------------------------|
| For the Petitioner/s  | : | Mr. Mrityunjay Kumar, Advocate |
| For the State         | : | Mr. K.K. Jha- Aag8             |
| For the Respts 2 to 5 | : | Mr. Niraj Kumar, Advocate      |

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

**Date : 20-04-2022**

Heard learned counsel for respective parties.

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

*“(i) For that the concerned Respondent may be directed to produce result of the petitioner with Marks for the post of Clerk-II in Bihar Vidhan Sabha, Secretariat, Patna examination held on 15/1/2003 in the light of Advertisement No.2 dated 28/2/2002.*

*(ii) For that the concerned respondent may also be directed to produce the result of last selected candidate with marks who passed the same for the post of Clerk-II.*

*(iii) For that the concerned respondents may be directed to appoint*



*the petitioner for the post of Clerk-II in Bihar Vidhan Sabha, Secretariat, Patna if he passed the same in the examination dated 15/1/2003.*

*(iv) For that any other relief/reliefs may also be provided to the petitioner if he deserves the same.”*

The petitioner had a cause of action in the year 2003-04 pursuant to the examination held on 15.01.2003 to the post of Clerk-II in Bihar Vidhan Sabha, Secretariat, Patna pursuant to the Advertisement No. 2 dated 28.02.2002.

Learned counsel for the petitioner submitted that delay is due to internal correspondence between the petitioner and the various authorities including RTI.

The enormous delay from 2004 to 2016, i.e., more than one decade cannot be condoned or ignored in entertaining the present petition. Hon’ble Apex Court in the case of ***Jammu and Kashmir V. R.K. Zalpuri*** reported in ***AIR 2016 SC 3006*** at para 20 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.”*

Apex Court in its decision in the case of ***State of Rajasthan Vs. Surji Devi*** reported in ***(2022) 1 SCC 17*** at para 6 to 9 held as under:-

*“6. The facts which emerged are that the late husband of the respondent was removed/dismissed from service by order dated 16-12-1996. He preferred an appeal which was pending before the appellate authority. During the pendency of the appeal, the late husband of the respondent - employee died/passed away in the year 2009. If the late husband of the respondent would not have been terminated/dismissed he would have attained the age of superannuation in the year 1999. After the death of the employee - late husband of the respondent she did not pursue the appeal, may be she might not be aware of filing/pendency of the appeal. That thereafter the respondent - widow of the employee filed a writ petition before the High Court in*



*the year 2012. Thus, by the time the respondent preferred a writ petition before the High Court, 15 years had passed from the date of termination and even approximately 13 years from the date on which the employee would have attained the age of superannuation i.e. from the year 1999.*

*7. Considering the aforesaid facts and circumstances, as such, the learned Single Judge ought not to have entertained the writ petition in the year 2012, challenging the order of termination passed on 16-12-1996, on the ground of delay and laches alone. At this stage, it is required to be noted that even despite the fact that it was specifically prayed by the respondent in writ petition before the learned Single Judge to direct the authority to decide the appeal preferred by her husband, the learned Single Judge despite the above prayer and the pending appeal, entered into the merits of the case and quashed and set aside the order of termination dated 16-12-1996.*

*8. The submission on behalf of the respondent is that the termination on 16-12-1996 was absolutely illegal and against the principles of natural justice is concerned, once we hold that the writ petition was barred by delay and laches, thereafter the merits are not required to be considered. As observed hereinabove, the learned Single Judge erred in entertaining the petition in the year 2012 challenging the order of termination passed in the year 1996, on the ground of delay and laches and more particularly when even otherwise if the termination order would not have been passed the deceased employee*



*would have retired on attaining the age of superannuation in the year 1999.*

*9. In view of the above and for the reasons stated above, the present appeal succeeds. The impugned judgment and order dated 1-3-2019 passed by the Division Bench of the High Court as well as the judgment and order dated 17-1-2017 passed by the learned Single Judge are hereby quashed and set aside. In the facts and circumstances of the case, there shall be no order as to costs.”*

In the light of these fact and circumstances, the petitioner has not made out a case on the ground of delay and laches. Accordingly, the present writ petition stands dismissed.

**(P. B. Bajanthri, J)**

Vikash/-

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