

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 10357 of 2018

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Rajesh Kumar Yadav Son of Sita Ram Yadav, Resident of Mohalla- Harnichak
Anisabad, P.S. Anisabad, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Home (Police), Government of Bihar, Secretariat, Patna
2. The Joint Secretary Home (Police), Government of Bihar, Secretariat, Patna.
3. The Director General of Police, Bihar, Old Secretariat, Patna.
4. The Senior Superintendent of Police, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Awadhesh Kr Mishra, Ajay Kr, Manoj Kr Pandey, Advocates
For the Respondent/s	:	Mr Mankeshwar Tiwari, AC to AAG III

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 21-11-2022

Heard learned counsel for the petitioner and the respondents.

2 Having been appointed without following any procedure as a Constable on 01.04.1997, the petitioner was subsequently dismissed, admittedly on 18.03.2002 pursuant to a departmental decision dated 04.09.2000 for terminating all similarly situated Constables, who were appointed without following any procedure and under “special circumstances”. The same was never assailed by the petitioner for sixteen years. All of a sudden, in the year 2016, he has filed a representation dated



28.01.2016 (Annexure 9) requesting the Home Department, Government of Bihar to reinstate him, placing reliance on certain orders passed by this Court in the case of others, who, the petitioner claims to be similarly situated.

3 Learned counsel for the petitioner submits that having regard to the Bihar State Litigation Policy 2011, specifically Clause 4.C (1) thereof, the petitioner's case should be considered as "a covered matter" and relief/s should be granted to him in terms of the orders passed in LPA No 1746 of 2010 (***Deepak Kumar -Versus- State of Bihar & Others***) in the year, 2011. LPA No 1167 of 2009 dated 08.08.2011 (***State of Bihar & Others -Versus- Md Manzoor Alam***), CWJC No 3799 of 2006 dated 23.07.2012 (***Satish Chandra Jha -Versus- State of Bihar & Others***), LPA No 690 of 2006 dated 23.05.2007 (***Mithilesh Kumar Singh -Versus- State of Bihar & Others***) and Division judgment in the case of ***Umesh Kumar Verma & Another -Versus- State of Bihar & Others*** in LPA No 1584 of 2017 dated 31.01.2018.

4 The learned State Counsel, however, submits that the writ petition has been filed after a long delay. The rejection of the petitioner's claim for being extended benefits under the Bihar State Litigation Policy, 2011 by treating his case as a "covered matter" by communication dated 31.03.2016 would not give rise to a fresh



cause of action, since the writ petition has been filed after sixteen years, i e, in the year, 2018 in respect of dismissal order dated 18.03.2002.

5 Learned counsel for the petitioner submits that in the year 2016, the representation was filed but the authorities have delayed consideration and, therefore, the petitioner should not be prejudiced by the delay.

6 Considering the rival submissions, this Court would record its agreement with the stand taken by the learned State Counsel. It is admitted fact that the petitioner had stood dismissed in the year, 2002 by an order which is dated 18.03.2002. The petitioner has, for the first time, approached the authorities by making a representation in the year, 2016. As per decision of the Apex Court in the case of *Union of India & Others -Versus- C Girija & Others*, reported in (2019) 15 Supreme Court Cases 633, filing of such belated representation would not confer a fresh cause of action on the petitioner and for the purposes of consideration whether the matter is delayed and suffers with laches or not, the Court is required to consider the original cause of action being the order dated 18.03.2002 whereby and where under the petitioner was dismissed from service. The impugned order dated 31.03.2016, therefore, cannot be considered as conferring any



cause of action on the petitioner for moving this Court. Having said so, this Court would further observe that the writ petition can also not be considered on account of insufficiency of pleadings even the order of dismissal dated 18.03.2002 has not been placed by the petitioner.

7 Writ petition is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.12.2022
Transmission Date	NA

