

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6398 of 2021

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Nandlal Yadav Son of Tapeshwari Yadav R/o Village Phulpur, Post-
Makdampur, P.s.- Chausa, District- Madhepura

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Department, Govt. of Bihar,
Patna
3. The Collector -cum-District Magistrate, at Madhepura District- Madhepura
4. The Sub Divisional Officer, Madhepura District- Madhepura
5. The Block Development Officer, Gamharia District- Madhepura
6. The Treasury Officer, at Madhepura District- Madhepura
7. The District Account Officer, at Madhepura District- Madhepura

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Jitendra Kumar Giri
For the Respondent/s : Mr.Lalit Kishore (Ag)

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

Date : 07-02-2022

The matter has been heard via video conferencing due to
circumstances prevailing on account of the COVID-19 pandemic.

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

“That this is the writ petition being filed
before this Hon’ble High Court on behalf of the
aforesaid petitioner for issuance of a writ in the nature
of ‘Certiorari’ whereby setting aside the order as
contained in Memo No. 107 dated 19.01.2018 issued
and signed under the signature of District Magistrate
Madhepura at Madhepura whereby and whereunder the
3 increments to the salary of the petitioner herein
above has been blocked with non cumulative effect
and apart from this the salary of the petitioner of the



suspension period from the year 2001 and 2004 and 2016 to 2019 has been directed, not to be paid to him save and except subsistence allowance and moreover commanding and directing the state respondents to make the payment of unpaid of the petitioner to him with due interest thereon in accordance with law.”

3. Without exhausting statutory remedy of appeal, petitioner has rushed to this Court. Thus, the present petition is premature in the light of Apex Court decision in the case of ***State of Jammu and Kashmir V/s. R.K.Zalpuri and others*** reported in **AIR 2016 SC 3006 paragraph-20** which has held as under:

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation V/s.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 question 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”

Underline Emphasized



4. Accordingly, the present petition is disposed off, 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 within a period of four months from the date of receipt of such appeal.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

