

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6846 of 2021

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Kameshwar Prasad Sinha S/o Deonandan Yadav, R/o village-Vigrahpur, PO-GPO, PS-Jakkanpur, District-Patna.

... .. Petitioner/s

Versus

1. The Bihar Public Service Commission through its Chairman, Bailey Road, Patna.
2. The Chairman, Bihar Public Service Commission Bailey Road, Patna.
3. The Secretary, Bihar Public Service Commission Bailey Road, Patna.
4. The Under Secretary (Establishment), Bihar Public Service Commission Bailey Road, Patna.
5. The OSD (Establishment), Bihar Public Service Commission Bailey Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Gaurav Govind, Advocate
For the BPSC	:	Mr.Sanjay Pandey, Advocate
		Mr. Nishant Kr. Jha, Advocate

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

Date : 22-02-2022

Heard the learned counsels for the parties.

2. In the instant petition, petitioner has sought for following reliefs:

“(i) For issuance of a writ in the nature of Certiorari quashing the office order no. 337 dated 14.03.2011 in so far it concerns the petitioner by which the benefit of 1st A.C.P. has been given to the petitioner with effect from 14.01.2008.

(ii) For issuance of a writ in the nature of Certiorari quashing the Office Order No. 67 dated 11.06.2020 issued under the signature of the Secretary, Bihar Public Service Commission by which representation filed by the petitioner in compliance of the order dated 29.01.2020 passed in C.W.J.C. No. 16085/19 has been rejected.



(iii) For issuance of a writ in the nature of Mandamus commanding the respondents to grant the benefit of first A.C.P. from 04.11.2006 and second M.A.C.P. from 04.11.2014 with interest calculated @ 18% per annum from the date it became due till its actual payment.

(iv) For issuance of any other writ/writs/order/orders or direction to which the petitioner may be found entitled to in the facts and circumstances of the case.”

3. Petitioner had cause of action on 14.03.2011 in so far as claiming ACP benefit from 2004 – 2005 and in respect of the year 2008. Petitioner had earlier approached this Court in CWJC No. 16085 of 2019 in which petitioner had prayed for following reliefs:

“(i) For issuance of a Writ in the nature of Mandamus commanding the respondents to fix the pension of the petitioner and pay arrear of pension with interest calculated @ 18% per annum from the date it became due till the date of its payment.

(ii) For issuance of a Writ in the nature of Mandamus commanding the respondents to pay leave encashment, gratuity to the petitioner with interest calculated @ 18% per annum from the date it became due till the date of its payment.

(iii) For issuance of a Writ in the nature of Mandamus commanding the respondents to grant Second M.A.C.P. to the petitioner from 19.02.2015 as decided vide Office Order No. 204 dated 15.09.2016 with interest calculated @ 18% per annum from the date it became due till the date of its payment.

(iv) For issuance of any other writ/writs/order/orders or direction to which the petitioner may be found entitled to in the facts and circumstances of the case.”

4. The present petition is filed in respect of challenge



to the order dated 14.03.2011. For the first time petitioner has questioned the order dated 14.03.2011. Earlier order passed in C.W.J.C. No. 16085 of 2019 and decided on 29.01.2020 do not enure the benefit of condonation of delay in questioning the order dated 14.03.2011 for the reasons that petitioner had not questioned the order dated 14.03.2011 in CWJC No. 16085 of 2019.

5. In the light of these facts and circumstances on the ground of delay and laches in questioning the order dated 14.03.2011, petitioner has not made out a case.

6. Apex Court decision in the case of State 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.”

One of the principle laid down in the aforesaid decision to entertain writ petition under Article 226 of the Constitution is to examine delay and laches.

7. Therefore, the present petition stands dismissed on the ground of delay and laches.

(P. B. Bajanthri, J)

rakhi/-

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Uploading Date	
Transmission Date	

