

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.44 of 2020

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Adya Nand Prasad Gupta, Son of Sri Sharda Nand Prasad Gupta, Resident of
Christian Colony, Kurji More P.O. Sadaquat Ashram, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Dept. of Craftsman Training Scheme-cum-Director, Employment and Training, Govt. of Bihar, New Sectt. Vikas Bhawan, Patna-800015.
2. The State Director, Craftsman Training Scheme-cum-Director, Employment and Training, Govt. of Bihar, New Sectt. Vikas Bhawan, Patna-800015.
3. The Union of India through Director, Directorate General, Employment and Training, Department of Labour, Ministry of Labour and Rehabilitation, Government of India, Rafi Marg, New Delhi.
4. The Controller of Examination, Directorate of Employment and Training, Government of Bihar, I.T.I. Campus, P.S. Digha, District-Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate
Mr. Anant Kumar 1, Advocate
For the Opposite Party/s : Mr. Ajay Kumar Rastogi (AAG- 10)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 16-11-2022

The sole petitioner has preferred the present application seeking review of order dated 14.11.2017 passed by this Court in CWJC No. 16224 of 2016 filed under Article 226 of the Constitution of India. In the writ petition, which was filed on 23.09.2016, the petitioner had prayed for following reliefs :-

"1. That this writ application is filed on behalf of the petitioner with the prayer before this Hon'ble Court for order and direction to the respondents to issue original National Trade Certificate, in short (NTC) for trade of



Fitter, relating to the session 93-95, along with cost/ compensation.

2. The petitioner further prays for any other relief/ reliefs for which the petitioner may be found entitled because of arbitrary, illegal withholding of original certificate, thereby dooming, jeopardising the career of the petitioner to get the benefit of aforesaid eligibility for want of original certificate."

2. It is apparent from the order under review dated 14.11.2017 that the writ petition was disposed of as having become infructuous upon production of National Trade Certificate (NTC) issued in favour of the petitioner on 09.11.2017. The petitioner thereafter preferred an appeal under the Letter Patent of this Court giving rise to LPA No. 1746 of 2017, putting to challenge the said order dated 14.11.2017. A Division Bench of this Court passed the following order on 07.01.2020 in LPA No. 1746 of 2020 :-

"The present memorandum of appeal is directed against the order dated 14.11.2017 passed in CWJC No. 16224 of 2016 by the learned Single Judge whereby the writ petition was disposed of as having become infructuous.

In so far as the limitation is concerned, the period for which the appellant has been pursuing the present appeal shall not be counted for the



purposes of limitation.

We find that the issue raised in the present appeal has not been considered by the learned Single Judge. As such, in our considered view, the appellant must avail the remedy by way of review petition.

The appeal stands disposed of."

3. Apparently, in the light of this Court's observation in the said order dated 07.01.2020, the petitioner has filed the present review application seeking review of the order dated 14.11.2017, passed in CWJC No. 16224 of 2016.

4. Mr. Sanjay Kumar, learned counsel appearing on behalf of the petitioner has argued that while passing the order under review dated 14.11.2017 this Court failed to notice the petitioner's prayer for direction to the respondents to pay compensation to recompense the loss suffered by the petitioner because of delayed issuance of the certificate. He has further argued that though the petitioner has passed the AITT examination in July 1995 but only provisional certificate was issued and original certificate had been illegally withheld, ignoring the petitioner's representations made from time to time. He has submitted that the petitioner had relied on a division Bench decision of this Court rendered on 25.01.2011 in LPA No. 96 of 2010 (*Amar Kumar Mahto and Anr. vs. The State of*



Bihar & Ors.), whereby in similar circumstance, for failure on the part of the authorities to issue certificates to the candidates of the same B.K. Institute of Technology, the Division Bench had considered it apt to direct the State of Bihar to pay to the appellants of that case by way of compensation to the tune of Rs. 10 lakhs each. He has submitted that this Court, while disposing of the petitioner's representation, has not taken into account the Division Bench decision in case of **Amar Kumar Mahto** (supra) while considering the petitioner's prayer for grant of compensation. He has submitted that the petitioner of the present case is similarly circumstanced with the appellants of **Amar Kumar Mahto** (supra) and, therefore, he ought to have been treated similarly while considering his prayer for payment of compensation.

5. A counter affidavit and a supplementary counter affidavit have been filed on behalf of the State of Bihar. It has been stated in the counter affidavit that one B.K. IIT Institue at Patna was granted permission by the Respondent No. 3 for taking admission of forty students for Fitter Trade in each year. However, contrary to the said permission, 59 students including this petitioner, were admitted by the Institute and, therefore, the original NCBT certificate was not issued to all such students



including the petitioner by the Director General, Employment and Training, Government of India. Certain grievances were raised by such candidates and accordingly the State of Bihar had requested Directorate General of Employment and Training (DGET), New Delhi to look into the matter and consider the same sympathetically.

6. It has further been stated that one Sujit Kumar Sinha had approached this Court by filing a writ petition giving rise to CWJC No. 4962 of 2016 for a direction to issue original certificate and during the pendency of the said writ application, taking a sympathetic view it was decided to issue original certificate to all such persons including the petitioner and accordingly the answering respondent sent the original certificate to the institution on 09.11.2017.

7. It is stated that despite the fact that the petitioner and other persons were admitted in the institute beyond the sanctioned strength, taking a sympathetic view, the respondents decided to issue certificates to the petitioner and other similarly situated persons.

8. It has been argued on behalf of the State that question of maintainability of the writ petition filed by the petitioner on 23.09.2016, nearly twenty years after the petitioner had appeared



in the examination, was not gone into by the Court while disposing of the writ petition as the petitioner was granted the main relief and the petitioner's grievance for issuance of certificate stood redressed. It has been argued that the petitioner has not been able to make out any case for award of compensation by this Court in the writ application for the actual damage suffered by him, by making specific pleadings in this regard. He has submitted that in the aforesaid circumstance, the Division Bench decision of this Court in case of **Amar Kumar Mahto** (supra) could not have been followed by this Court while deciding the petitioner's writ petition. Reliance has been placed on Supreme Court's decision rendered in case of *S.S. Balu & Ors. vs. State of Kerala & Ors.* reported in (2009) 2 SCC 479 and *State of U.P. vs. Arvind Kumar Srivastava & Ors.* reported in (2015) 1 SCC 347 to contend that the writ petition filed by the petitioner, twenty years after the cause of action had arisen, without any plausible explanation deserved to be dismissed on the ground of delay and laches itself. It has been argued that in the absence of any pleading of actual injury caused to the petitioner, question of payment of compensation does not arise.

9. I have perused the pleadings on record and I have given my anxious consideration to the rival submission made on



behalf of the parties.

10. In the present review application, following grounds have been taken for reviewing this Court's order dated 14.11.2017

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"I. For that by the order passed by Hon'ble Judge only one prayer of the petitioner was taken into account whereas other prayer was not considered when has caused immense was to him.

II. For that order passed in C.W.J.C. No. 16224/16 by which his lordship had been pleased to dispose of the writ petition having become infructuous, thereby the cost and compensation for the suffering and jeopardizing career and dooming career etc., of the petitioner the cost and compensation has not been considered as has been directed by Hon'ble Court in other proceedings.

III. For that in fact and circumstances stated herein above the petitioner prays to review the order dated 14.11.2017 passed in C.W.J.C. No. 16224/16 passed by Hon'ble Mr. Justice Chakradhari Sharan Singh i.e., there are good grounds for reviewing the aforesaid order.

IV. For that the petitioner's case facts and circumstances are fully covered by two Hon'ble D.B. orders of this Hon'ble Court i.e. order dated 17.12.2009 of L.P.A. No. 127/2006 and order dated 25.01.2011 of L.P.A. No. 96/2010 which orders became absolute



*after dismissal of S.L.P. dated 3.5.2010
filed by Union of India and others.*

*V. For that relevant facts of
this petition may be treated as
grounds."*

11. There is no ground taken in the review application that the learned counsel for the petitioner had pressed the prayer for grant of compensation which this Court, while disposing of the writ petition as having become infructuous, declined to address. Learned counsel for the petitioner was present when the order of this Court dated 14.11.2017 was passed, as is evident from the order itself.

12. Secondly, I find substance in submission made on behalf of the State that delay of nearly twenty years in filing of the writ petition i.e. CWJC No. 16224 of 2016 did not have any plausible explanation, except for the one that the petitioner was making representations before the authorities. It appears that the petitioner is attempting to take undue advantage of disposal of the writ petition by this Court without entering into the question of maintainability of the said writ petition on the ground of delay and laches; which was done taking into account the development that the petitioner's grievance was already redressed with the issuance of the certificate in his favour. After disposal of the writ petition as having become infructuous, the petitioner is now



pressing his claim for payment of compensation, relying on Division Bench decision of this Court in case of **Amar Kumar Mahto** (supra).

13. The order of this Court dated 25.01.2011 in case of **Amar Kumar Mahto** (supra) is there on record by way of Annexure-2 to the writ application. From the said order, it transpires that the appellants of that case had approached this Court by filing writ petition in 2001, which was dismissed by an order dated 06.10.2001. They had filed a review application thereafter, which was dismissed by an order dated 27.10.2009. Dismissal of the review application had given the appellants of **Amar Kumar Mahto** (supra) a cause of action to prefer a Letters Patent Appeal. In the said LPA No. 96 of 2010 the order was passed on 25.01.2011 by a Division Bench of this Court awarding the compensation as noted above. Fifteen years after the said Amar Kumar Mahto had filed his writ application seeking a direction from this Court, this petitioner filed the present writ application in 2016. Further, the petitioner approached this Court more than five and half years after disposal of LPA No. 96 of 2010 (**Amar Kumar Mahto**). The petitioner was apparently a fence sitter and in no event he is entitled to claim parity with the appellants of **Amar Kumar Mahto** (supra).



14. In my opinion, this review application is meritless.

No ground is made out for review of the order dated 14.11.2017.

Review application is accordingly dismissed.

15. There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

Rajesh/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	21.11.2022
Transmission Date	NA

