

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8805 of 2021

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1. Shyam Bahadur Sah Son of Raj Kumar Sah, Resident of Village-Siswan Purvipatti, P.O.-Gangpur, P.S.-Siwan, District Siwan.
 2. Surendra Kumar Mandal, son of Bikau Mandal, Resident of Village-Damu, P.S. Basopatti, District Madhubani.
 3. Vikas Ranjan, son of Late Ram Swarup Paswan, Resident of Village-Noor Nagar, P.S. Harnaut, District Nalanda (Biharsharif).
 4. Md. Irfan Alam, son of Abdul Samad, Resident of Village-Rahimpur Rudauli, P.O.-Harpur, P.S.-Aloth, District-Samastipur.
 5. Kumar Gaurav, son of Shivji Chaudhary, Resident of Village-Hathsar Ganj, P.O.-Hajipur, P.S. Hajipur, District-Vaishali (Hajipur).
 6. Subhash Chandra Jha son of Yugeshwar Jha, Resident of Village-Mahrail, P.S.-Rudrapur, District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
3. The Secretary, Department of Personnel and Administrative Reforms, Government of Bihar, Patna.
4. The Commissioner, Tirhut Division, Muzaffarpur (Bihar).
5. The District Magistrate, Muzaffarpur
6. The District Provident Fund Officer, Muzaffarpur, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Yogendra Kumar
For the Respondent/s : Mr.Md. N.H. Khan (Sc1)

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

Date : 15-02-2022

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

2. State counsel accept notice for respondents.

3. In the instant petition, petitioners have prayed for following reliefs:



“1. That, the petitioners craves, indulgence of this Hon'ble Court for issuance of directions, orders or writs in the nature of:-

a) A mandamus commanding the respondent authorities concerned to accept the joining of the petitioners on their Class-III post of clerk from the date on which the notification appointing other candidates placed (even below) in the same merit list than the petitioners was issued

b) And for further commanding the respondents authorities to fix the seniority of the petitioners as per the merit list and to grant all notional benefits of continuous service and seniority to petitioners as may be available to the other candidates appointed on 30.03.2005 from the same merit list.

c) And for further commanding the respondents authorities to provide benefits of old pension scheme (G.P.F.) in place of contributory pension plan (C.P.P) treating these petitioners to have been appointed prior to 01.09.2005 for the purpose of application of the service condition in regard to the pension. Since other appointees from the same merit list have been provide benefits of old pension scheme.

d) A mandamus directing to respondent authorities to fix salary of the petitioners after granting all notional benefits treating the date of appointment as 30.03.2005 on class III post of clerk and to pay all consequential monetary benefits to them with effect from the date on which the petitioners have been appointed.

e) Any other writ/writs for granting any other reliefs for which the petitioners are found entitled to in the facts and circumstances of the present case.”

4. Petitioners' grievance is pursuant to the

Advertisement No. 20 of 1998 for the District of Muzaffarpur.



In support of the prayer, petitioners are relying on recommendation dated 16.01.2003 (Annexure-2). Petitioners have not explained as to how they will overcome delay and laches from the year 2003 to 2021. 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.”

5. Thus, the present petition is liable to be dismissed on the ground of delay and laches. That apart, Apex Court time



and again held that in the case of selection and appointment, candidate must approach jurisdictional forum within a reasonable period of time.

6. At this stage, learned counsel for the petitioners keeping on addressing the matter and abusing the process of Court. Accordingly, the present petition stands dismissed with cost of Rs. 5,000/-. The cost shall be deposited in Patna High Court Legal Services Committee, within two months from today.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	24.02.2022
Transmission Date	

