

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5905 of 2020

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Yogeshwar Yadav resident of Shahpur Tola- Jatmara, P.O.- Shahpur, Patori,
P.S. Shahpur, District- Samstipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Home Department, Government of Bihar, Patna.
2. The Inspector General of Police, Bihar, Patna.
3. The Deputy Inspector General of Police, Shahabad Region, Dehri-On-Sone, Bihar.
4. Regional Inspector General of Police, Patna.
5. The Superintendent of Police, District- Rohtas.
6. The Deputy Superintendent of Police, District- Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Namrata Mishra
For the Respondent/s : Mr. Md.N.H.Khan (SC-1)

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

Date : 22-02-2022

Heard learned counsel for the parties.

“By this application the petitioner craves
indulgence of the Hon’ble Court for issuance of appropriate
writ/writs, order/orders, direction/directions for the following
reliefs:

*“i. For quashing of the order
dated 04.02.1998 passed by
Superintendent of Police, Rohtas to*



the extent that though the petitioner has been reinstated in service w.e.f. 31.01.1998 but from the date of reinstatement in minimum pay scale of 950-20-1150-25-1400 thus a break in service has been caused.

ii. For a direction to the authorities to count the period from 01.07.1985 to 31.01.1998 in service and accordingly make payment of his pension and other pensionary benefit with interest.

iii. For also direction to be authorities to make payment of salary for the period 01.07.1985 to 31.01.1997 which has been paid to similarly re-instated constable Mahendra Kunwar.

iv. Further payment of interest on the dues till the date of payment.

v. For any other relief/reliefs for which petitioner is found entitled in



the facts and circumstances of the case.”

Petitioner had a cause of action in the month of February, 1998. The petitioner came to know of the fact that service from 01.07.1985 to 31.01.1998 has been denied for the purpose of pension and other pensionary benefits. Even though order of re-instatement is prospective in nature and the petitioner is failed to question the order dated 04.02.1998 in so as re-instatement in service w.e.f. 31.01.1998 with minimum pay scale of 950-20-1150-25-1400, there is delay and laches on the part of the petitioner in not questioning the condition at order dated 04.02.1998 to the extent that reinstatement is done w.e.f. 31.01.1998. Petitioner was aware of reinstatement order and that he has lost previous service from 01.07.1985 to 31.01.1998, however, he has slept over his right. Apex Court decision in the case of ***State of Jammu and Kashmir Vs. R.K. Zalpuri and others reported in AIR 2016 SC 3006***, Paragraph-20, which is held as under:

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



One of the principle laid down in the aforesaid decision is, before entertaining a petition under Article 226 of the Constitution, Court has to examine unexplained delay and laches. On this score, petitioner has not made out a case.

Hence, writ petition stands dismissed.

(P. B. Bajanthri, J)

Ankit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.03.2022
Transmission Date	NA

