

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8798 of 2021

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Jaya Kumari, wife of Nand Kishore Das, resident of Village- Lakhandih
(Garbhudih) Post- Basguthi, Police Station- Chakai, District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Rural Development Department, Govt. of Bihar, Patna.
2. The District Welfare Officer, Jamui.
3. The Sub- Divisional Officer, Jamui.
4. The Block Development Officer, Chakai, District- Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Akhauri Kamal Kishore Sahay, Advocate
For the Respondent/s : Mr. Rajesh Kumar, AC to GP-3

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

Date : 07-03-2022

Heard learned counsel for the parties.

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

“i) Issuance of a writ of mandamus directing the respondent authorities to appoint the petitioner on the post of Vikas Mitra under Gajhi Gram Panchayat, Block- Chakai, District- Jamui.

ii) Issuance of a writ in the nature of writ of certioari stay the advertisement of 2021 in respect of appointment of Vikas Mitra in the District of Jamui.

iii) Issuance of any other writ(s) or order(s) or direction(s) which may be deemed fit and proper in the facts and circumstances of the case.”

3. The petitioner was a candidate for recruitment to the post of Vikas Mitra under Gajhi Gram Panchayat, Block- Chakai, District- Jamui pursuant to advertisement issued in the year 2010.



The process of selection and appointment were stated to have been completed in the year 2010-11.

4. Learned counsel for the petitioner submitted that the petitioner is more meritorious than the selected candidate. The petitioner has not assailed the selection and appointment of such persons, who has stated to have secured lesser marks than the petitioner between the year 2010-2013 within a reasonable period of three years from the date of selection and appointment of such appointee to the post of Vikas Mitra.

5. For the purpose of selection, appointment and promotion, time and again the Apex Court held that reasonable period for approaching the judicial forum is within a period of six months, whereas the present petition is presented in the year 2021. Thus, there is delay and laches.

6. The Apex Court in the case of **P.S. Sadasivaswamy vs The State of Tamil Nadu**, reported in **(1975) 1 SCC 152** and **Vijay Kumar Kaul Vs. The Union of India & Ors**, reported in **(2012) 7 SCC 610** held that belated litigation in respect of service condition cannot be entertained in particularly selection, appointment, promotion and seniority. Moreover, in the case of **State of Rajsthan Vs. Surji Devi**, reported in **(2022) 1 SCC 17** at para 6 to 9 held as under:

“6. The facts which emerged are that the late husband of the respondent was removed/dismissed from



service by order dated 16-12-1996. He preferred an appeal which was pending before the appellate authority. During the pendency of the appeal, the late husband of the respondent - employee died/passed away in the year 2009. If the late husband of the respondent would not have been terminated/dismissed he would have attained the age of superannuation in the year 1999. After the death of the employee – late husband of the respondent she did not pursue the appeal, may be she might not be aware of filing/pendency of the appeal. That thereafter the respondent – widow of the employee filed a writ petition before the High Court in the year 2012. Thus, by the time the respondent preferred a writ petition before the High Court, 15 years had passed from the date of termination and even approximately 13 years from the date on which the employee would have attained the age of superannuation i.e. from the year 1999.

7. Considering the aforesaid facts and circumstances, as such, the learned Single Judge ought not to have entertained the writ petition in the year 2012, challenging the order of termination passed on 16-12-1996, on the ground of delay and laches alone. At this stage, it is required to be noted that even despite the fact that it was specifically prayed by the respondent in writ petition before the learned Single Judge to direct the authority to decide the appeal preferred by her husband, the learned Single Judge despite the above prayer and the pending appeal, entered into the merits of the case and quashed and set aside the order of termination dated 16-12-1996.

8. The submission on behalf of the respondent is that the termination on 16-12-1996 was absolutely illegal and against the principles of natural justice is



concerned, once we hold that the writ petition was barred by delay and laches, thereafter the merits are not required to be considered. As observed hereinabove, the learned Single Judge erred in entertaining the petition in the year 2012 challenging the order of termination passed in the year 1996, on the ground of delay and laches and more particularly when even otherwise if the termination order would not have been passed the deceased employee would have retired on attaining the age of superannuation in the year 1999.

9. In view of the above and for the reasons stated above, the present appeal succeeds. The impugned judgment and order dated 1-3-2019 passed by the Division Bench of the High Court as well as the judgment and order dated 17-1-2017 passed by the learned Single Judge are hereby quashed and set aside. In the facts and circumstances of the case, there shall be no order as to costs.”

7. In the light of the aforesaid principle laid down by the Apex Court, the petitioner has not made out a case so as to interfere with the relief sought in the present petition on the ground of delay and laches.

8. Accordingly, the writ petition stands dismissed.

(P. B. Bajanthri, J)

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AFR/NAFR	NAFR
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