

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.383 of 2019

Shailendra Kumar, Son of Late Dr. Mahabir Das, Resident of Mohalla- East
Boring Canal Road, Kamta Singh Lane, P.S.- Budha Colony, District- Patna.

... .. Appellant/s

Versus

1. The Bihar State Pollution control Board through its Chairman Parivesh Bhawan Industrial Area, P.S. Patliputra District- Patna.
2. The Chairman Bihar State Pollution Control Board, Parivesh Bhawan Industrial Area, P.S.- Patliputra, District- Patna.
3. The Member Secretary Bihar State Pollution Control Board, Parivesh Bhawan Industrial Area, P.S.- Patliputra, District- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. U.R.P. Singh, Advocate

For the Bihar State

Pollution Control Board : Mr. Abhimanyu Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 24-08-2022

Heard learned counsels for the parties.

2. In the instant Letters Patent Appeal, appellant has assailed the order of the learned single Judge dated 18.02.2019 passed in C.W.J.C. No. 2359 of 2019.

3. The appellant was subjected to disciplinary proceedings when he was working as Senior Scientific Assistant in the Bihar State Pollution Control Board on 15.12.1994. The appellant's services were terminated/discharged on 13.11.1995. It was subject-matter of C.W.J.C. No. 2435 of 1996 and it was



dismissed on 19.04.2000. Feeling aggrieved and dissatisfied with the order of the learned single Judge dated 19.04.2000, appellant preferred L.P.A. No. 893 of 2000 and it was decided on 22.07.2008. L.P.A. Bench quashed the order of termination and remanded the matter. The appellant was permitted to join duty on 07.08.2008. Further enquiry was concluded in imposition of penalty of withholding of one increment and the intervening period restricted to only subsistence allowance. The appellant has attained age of superannuation and retired from service in the year 2017. Thereafter, in the year 2019, appellant has questioned the validity of the later punishment order dated 22.10.2013. The learned single Judge has not taken note of delay and laches in filing writ petition against the penalty order dated 22.10.2013.

4. 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.” The above exercise shall be completed within a period of three months from the date of receipt of this order.

One of the principle laid down in the aforesaid decision is before entertaining a writ petition Writ Court is required to examine delay and laches. In the present case, there is delay of about seven years in so far as questioning the validity of penalty order in a disciplinary proceedings. Therefore, one has to draw inference that there is delay and laches on the part of the appellant. In other words, after his attaining age of superannuation and retired from service, he has opened his eyes to challenge the validity of the punishment.

5. Recently Apex Court deprecated in so far as questioning the penalty order belatedly in the case of *State of Uttar Pradesh and Ors. Vs. Krishna Bahadur Singh* reported



in *(2021) 11 SCC 812*.

6. In the light of these facts and circumstances, appellant has not made out a case so as to interfere with the penalty order and the learned single Judge order.

7. Accordingly, the present Letters Patent Appeal stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

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CAV DATE	
Uploading Date	29.08.2022
Transmission Date	

