

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9166 of 2020

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Pramod Kumar Son of Late Awadh Bihari Prasad Resident of Mohalla-
Revenue Colony, Chitragupta Nagar, P.S.- Kankarbagh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary and Commissioner, Road Construction Department, Govt. of Bihar, Patna.
2. Joint Secretary to the Government, Road Construction Department, Government of Bihar, Patna.
3. Special Secretary to the Government, Road Construction Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mukul Sinha
For the Respondent/s : Mr.Lalit Kishore (Ag)

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

Date : 03-01-2022

Heard learned counsel for the parties.

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

“That this is an application for issuance of an appropriate writ(s), order/s, or direction to respondents to regularize the functioning of the petitioner as Engineer-in-Chief in the Rural Engineering Organization on which post he was allowed to discharge the duties of Engineer-in-Chief, (on incharge basis) against the sanctioned vacant post, in accordance with his position in the Gradation list, till his superannuation i.e. 31.7.2002.

The petitioner also prays for an appropriate direction for payment of all consequential benefits arising out of such regularization, including the revision in pensionary benefits and payment of arrears of salary.”



3. Petitioner is stated to have held the Engineer-in-Chief post on In-charge basis and retired in the year 2002. The petitioner had approached this Court in respect of Chief Engineer's post and it was decided on 02.08.2007. As and when he retired from service while holding the In-charge Chief Engineer post, he had a cause of action even if he was not promoted to the post of Chief Engineer since he was holding the post of Engineer-in-Chief as on the date of retirement. Having regard to the date of cause of action on 20th February, 2002 for the post of Engineer in Chief the present petition is presented in the month of December, 2020. The petitioner has failed to explain delay and laches. He being a Class-I officer should have aware of the limitation. Therefore, in the light of Apex Court decision in the case of ***P.S. Sadasivaswamy Vs. State of Tamil Nadu*** reported in **AIR 1974 SCC 2271** in which it is held that for the purpose of promotion one must approach judicial forum within a period of six months from the date of cause of action. The petitioner could not explain enormous delay from 2002 to 2020 except stating that he had approached this Court in respect of Chief Engineer's post in the year 2007. The Apex Court in the case of ***State of Jammu and Kashmir V/s. R.K.Zalpuri and others*** reported in **AIR 2016 SC 3006 paragraph-20** has held as under:



“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation V/s.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 issue in entertaining the writ petition is to verify whether is there any delay and laches. In the light of the aforesaid Apex Court decision the petitioner has not made out a case on the ground of delay and laches.

4. Accordingly, writ petition stands dismissed.

(P. B. Bajanthri, J)

GAURAV S./-

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CAV DATE	
Uploading Date	07.01.2022
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