

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.409 of 2019

In

Civil Writ Jurisdiction Case No.1936 of 2016

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Dinesh Rai Son of Late Nandlal Rai resident of Village Amarpur P.s Barauni
Chakia Distt Begusarai.

... .. Appellant/s

Versus

1. The State of Bihar through Principal Secretary Department of Energy,
Government of Bihar, Patna.
2. The Bihar State Electricity Board Through its Chairman Bailey Road, Patna.
3. The Managing Director, Bihar State Electricity Board, Bailey Road
4. The Director (Administration) Bihar State Electricity Board, Patna.
5. The Barauni Thermal Power Station Chakia, Begusarai through the
Managing Director.
6. The Director (Administration) Barauni Thermal Power Station, Chakia,
Begusarai
7. The Deputy Director (Administration) Barauni Thermal Power Station,
Chakia, Begusarai
8. The General Manager-cum-Chief Engineer Barauni Thermal Power Station,
begusarai
9. The Deputy General Manager Barauni Thermal Power Station, Chaia,
Begusarai

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.
For the Respondent/s : Mr. Yogendra Prasad Sinha (AAG-7)
For Respondent No. 2 to 9: Mr. Ajay Kumar Gautam, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

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

Date : 07-11-2022

Matter called twice, none appears for the appellant.

2. In the present L.P.A., appellant has assailed the order
of the learned Single Judge dated 30.01.2019 passed in C.W.J.C.
No. 1936 of 2016.



3. Short question for consideration in the present L.P.A. is whether this Court can interfere with the disengagement of appellant from his temporary service as a Coal Unloader dated 23.06.2000 or not?

4. Perusal of the records it is evident that the appellant had earlier approached this Court in C.W.J.C. No. 10685 of 2015 and it was withdrawn by giving certain liberty. Thereafter, he has once again filed C.W.J.C. No. 1936 of 2016. Ultimately, his grievance is in respect of disengagement from his temporary service as a Coal Unloader vide order dated 23.06.2000. There is inordinate delay and laches on the part of appellant in invoking jurisdiction under Article 226 of the Constitution.

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. One of the principle laid down by the Apex Court in the aforementioned decision is that before entertaining petition under Article 226 of the Constitution Writ Court has to take note of delay and laches in filing writ petition or not? In the present matter, there is delay and laches during the intervening period from the year 2000 to 2015. Therefore, appellant has not made out a case so as to interfere with the order of the learned Single Judge dated 30.01.2019 passed in C.W.J.C. No. 1936 of 2016.

6. Accordingly, the present L.P.A. stands dismissed while affirming the order of the learned Single Judge dated 30.01.2019 passed in C.W.J.C. No. 1936 of 2016.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

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