

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11208 of 2021

Manoj Kumar Sinha, Son of Late Radhey Ram, Resident of Ashiana Digha Road, Behind Raj Maitri Apartment, Police Station-Shastrinagar, P.O.- B.V. College, Bailey Road, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Chief Engineer, Planning and Development Department, Fourth Floor, Visheshwaraiya Bhawan, Bailey Road, Patna.
3. Principal Secretary, Planning and Development Department, Govt. of Bihar, Patna.
4. Executive Engineer, Local Region Engineering Organisation, Work Division-2, Hilsa, Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s : Dr. Manoj Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar, AAG-4

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 08-09-2022 The impugned order is dated 30.03.2013, bringing to an end the petitioner's contractual existence as Junior Engineer, on contract, for a specified period.

The writ application has been filed nine years thereafter. The only ground taken is filing of representations. Law is well settled that merely filing of representations cannot be made the basis of assailing stale orders.

In this connection, this Court would consider it useful to take into consideration the law as reiterated by the Hon'ble Apex Court in the case of ***Union of India and Others vs. C. Girija and Others***, reported in ***(2019) 15 SCC 633***, Para 18 of which reads as under:

18. Again, this Court in State of Uttaranchal v. Shiv Charan Singh Bhandari [State of Uttaranchal v. Shiv Charan Singh Bhandari, (2013) 12 SCC 179 : (2014) 3 SCC (L&S) 32] had occasion to consider question of delay



in challenging the promotion. The Court further held that representations relating to a stale claim or dead grievance does not give rise to a fresh cause of action. In paras 19 and 23 following was laid down : (SCC pp. 184-85)

“19. From the aforesaid authorities it is clear as crystal that even if the court or tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix. Similarly, a mere submission of representation to the competent authority does not arrest time.

23. In State of T.N. v. Seshachalam [State of T.N. v. Seshachalam, (2007) 10 SCC 137 : (2008) 1 SCC (L&S) 475] , this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus : (SCC p. 145, para 16)

‘16. ... filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant.’”

Writ petition is dismissed as barred by delay and laches.

(Madhuresh Prasad, J)

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