

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20877 of 2018

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Shyam Sundar Prasad S/o Sri Shiv Shankar Lal Resident of Mohalla-Manik Tola, Mokama, Ward No.9, P.O. and P.S.-Mokama, District-Patna.

... .. Petitioner/s

Versus

1. THE UNION OF INDIA through the Comptroller and Auditor General, New Delhi
2. The Principal Accountant General (Audit), Bihar, Indian Audit and Accounts Department, Birchand Patel Marg, Patna.
3. The Principal Director of Audit, E.C. railway, Hajipur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. J.K. Karn, Advocate
		Mr. Sujeet Kumar, Advocate
For the Accountant General :		Mr. Arun Kr. Arun, Advocate
For the Railway	:	Ms. Punam Kumari Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 22-06-2022

Heard learned counsel for the parties.

2. In the instant petition petitioner has assailed the order dated 26.10.2016 passed in O.A. No. 755 of 2016 and M.A. No. 423 of 2016. The grievance of the petitioner before the Tribunal is to consider his candidature for appointment against any one of the vacant posts of M.T.S. pursuant to the notification issued in the year 2010. Petitioner has approached the Tribunal in the year 2016. As on the date of presentation of original application by the



petitioner the process of selection and appointment to the post of M.T.S. has already attained finality.

3. Under the Administrative Tribunal Act, applicant is required to prefer application within one year from the date of cause of action. No doubt there is a provision for filing interlocutory application for condonation of delay, however, sufficient cause has not been shown that has been taken note of by the Tribunal by passing the order dated 26.10.2016. The Tribunal has also taken note of non joinder of parties. In other words, in the event of petitioner is granted relief, third party right would be affected, since the process of selection and appointment was completed as on the date of presentation of original application by the petitioner before the Tribunal.

4. Apex Court in the case of ***P.S. Sadasivaswamy vs. State of T.N.*** reported in ***AIR 1974 SC 2271*** and in the case of ***Vijay Kumar Kaul and Ors. vs. Union of India*** reported in (2012) 7 SCC 610 held that in respect of selection/appointment/promotion, party must approach within a reasonable period of six months from the date of cause of action accrued to him/her. In the light of principles laid down by the Apex Court in the aforesaid decisions, we find no merit in the case so as to condone the delay of six years. That apart, Apex Court



time and again held that condonation of delay by the Tribunal is a discretionary power vested with the Tribunal.

5. In the light of above facts and circumstances, the petitioner has not made out a *prima facie* case, hence, petition stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

