

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.866 of 2021

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Suresh Kumar Singh @ Suresh Kumar S/o Nathu Singh, Village and P.O. Silari, P.S. Shivsagar, District Rohotas.

... .. Petitioner/s

Versus

1. The State of Bihar through its Secretary, Panchayati Raj Department, Patna, Bihar.
2. The Director, Panchayati Raj Department, Govt. of Bihar, Patna.
3. The District Magistrate, Rohtas, Sasaram.
4. The Deputy Development Commissioner, Rohtas.
5. The Additional Collector, Rohtas.
6. The Sub-Divisional Officer, Dehri/Sasaram, Rohtas.
7. The Treasury Officer, Sasaram/Dehri, Rohtas.
8. The Block Development Officer, Chenari/Nauhatta, Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar
For the Respondent/s : Mr. Ajay, GA-5

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

Date : 17-01-2022

The matter is heard via video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. State counsel accept notice for respondents.

3. In the instant petition, petitioner has sought for following reliefs:

“1. That this is in application on behalf of above named petitioner for issuance of appropriate writ(s), order(s), direction(s) to the respondents for following relief(s):-

i. To quash the memo no. 2000 dated 11.12.2019 issued by the District Officer, Rohtas, Sasaram, whereby and where under the petitioner penalize with stop two



pay scale increment and during suspension period nothing has been paid except subsistence allowance and further suspension period has not been counted for ACP benefit. A copy of memo dated 11.12.2019 is annexed herewith and marked as **Annexure-1** to this application.

ii. To further direct the respondent authority to pay the all consequential benefit and also starts the pension with retirement benefit.

And/or any other appropriate relief(s) for which he may be found entitle under the fact and circumstance.”

4. The petitioner without exhausting statutory remedy against the order of penalty dated 11.12.2019 approached this Court.

5. Accordingly, the present petition stands disposed of in the light of Apex Court decision in the case of State 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 if 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.”

6. The petitioner is permitted to prefer appeal before the appellate authority within a period of eight weeks from the date of receipt of this order. If such appeal is filed, the appellate authority is hereby directed to decide the petitioner’s appeal within a period of four months from the date of receipt of aforesaid appeal. The appellate authority is hereby directed to take note of Section 14 of the Limitation Act for the purpose of condonation of delay in presenting the petitioner’s appeal.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

