

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1953 of 2021

Anil Kumar Singh Son of Late Rajendra Prasad Singh Resident of at and
P.O.- Dumri, Ward No.7, P.S.- Muffasil, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Principal Secretary, Irrigation Department, Govt. of Bihar, Patna.
4. The Principal Secretary, Rural Works Department, Govt. of Bihar, Patna.
5. The Principal Secretary, Planning and Development Department, Govt. of Bihar, Patna.
6. The Engineer-in-Chief, Water Resources Department, Bihar, Patna.
7. The Engineer-in-Chief, Rural Works Department, Bihar, Patna.
8. The Chief Engineer, Water Resources Department, Dehri, Rohtas.
9. The Chief Engineer, Water Resources Department, Samastipur.
10. The Chief Engineer, Rural Works Department, Patna.
11. The Superintending Engineer, Rural Works Department, Work Circle, Purnea.
12. The Superintending Engineer, Rural Works Department, Work Circle, Samastipur.
13. The Executive Engineer, Rural Works Department, Works Division, Forbesganj, Araria.
14. The Executive Engineer, Rural Works Department, Works Division, Balia, Begusarai.
15. The Executive Engineer, Water Resources Department, Irrigation Division, Baunsi, Banka.
16. The Executive Engineer, Water Resources Department, Design Division No.2, Samastipur.
17. The Executive Engineer, Water Resources Department, Flood Control Division, Dalsinghsarai, Samastipur.
18. The Executive Engineer, Local Area Engineering Organization, Works Division, Munger.
19. The Accountant General, Bihar, Patna.
20. The Director, Provident Fund Directorate, Bihar, Patna.
21. The District Provident Fund Officer, Patna.
22. The District Provident Fund Officer, Araria.
23. The District Provident Fund Officer, Begusarai.
24. The District Provident Fund Officer, Banka.
25. The District Provident Fund Officer, Rohtas at Sasaram.



26. The District Provident Fund Officer, Samastipur.
27. The District Provident Fund Officer, Munger.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Prashant Sinha
For the Respondent/s : Mr. Deepak Sahay Jamuar, AC to AAG-4

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

ORAL JUDGMENT

Date : 08-03-2022

Heard the learned counsels for the parties.

State counsel accept notice for respondents.

On 22.02.2022 following order was passed:

“Heard learned counsel for the parties.

Petitioner’s grievance is in respect of certain service benefits and monetary benefits for the period from October, 2008 to 30th November, 2019.

Learned counsel for the petitioner submitted that petitioner has worked in different offices, therefore, he is hereby directed to furnish service particulars, statements during the period from October, 2008 to 30th November, 2019 so as to enable the concerned respondent to file their response.

Re-list this case on 08.03.2022.”

The petitioner has filed supplementary affidavit.

Para 3 of the aforesaid affidavit reads as under:

“3. That the Hon’ble Court has directed the petitioner to submit the service particulars, statements during the period from October, 2008 to 30th November, 2019. The same is as under:-



(i) From June, 2008 to August, 2009, the petitioner remained posted under Irrigation Division, Baunsi (Banka) as Junior Engineer,

(ii) From September, 2009 to January, 2012, the petitioner remained posted in the office of the Chief Engineer, Irrigation Department, Dehri, Rohtas as Junior Engineer (the petitioner was under suspension and his Headquarter was at the office of Chief Engineer, Irrigation Department, Dehri).

(iii) From 03-02-2012 to 15-03-2012, the petitioner remained posted in the Headquarters of Water Resources Department, Bihar, Patna, as Junior Engineer (the petitioner was under waiting for posting),

(iv) From 16-03-2012 to 25-03-2012, the petitioner remained posted in the office of the Chief Engineer, Water Resources Department, Samastipur, as Junior Engineer (the petitioner was under waiting for posting),

(v) From 26-03-2012 to 22-08-2012, the petitioner remained posted in the Design Division No. 2, Water Resources Department, Samastipur, as Junior Engineer,

(vi) From 22-08-2012 to 09-03-2015, the petitioner remained posted in the Flood Control Division, Dalsinghsarai, Samastipur as Junior Engineer.

(vii) From 10-03-2015 to 30-11-2019, the petitioner remained posted in Local Area Engineering Organization, Works Division-1, Munger (under Planning and Development Department, Bihar, Patna) as Junior Engineer.”



Grievance of the petitioner relates back to 2008 to 2019. The petitioner retired while holding the post of Junior Engineer on 30th November, 2019. It is surprising that the petitioner survived without salary from 2008 to 2019 while holding post of Junior Engineer. In other words, it is least bother as to is he entitled for salary or not for the obvious reason that for the first time petitioner demanded salary from 2008 to 2019 after his retirement from service.

Having regard to the conduct of the petitioner that he has not demanded as and when salary was due to him in the year 2008 to 2019, he is not entitled to salary from October, 2008 to 01.12.2016. However, he is entitled to salary during the period of 1st December, 2016 to till 30th November, 2019 with reference to limitation period.

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.”

Read with decision rendered in the case of *State of Rajasthan Vs. Surji Devi* reported in (2022) 1 SCC 17 at para 6 to 9 held as under:

“6. The facts which emerged are that the late husband of the respondent was removed/dismissed from service by order dated 16-12-1996. He preferred an appeal which was pending before the appellate authority. During the pendency of the appeal, the late husband of the respondent - employee died/passed away in the year 2009. If the late husband of the respondent would not have been terminated/dismissed he would have attained the age of superannuation in the year 1999. After the death of the employee – late husband of the respondent she did not pursue the appeal, may be she might not be aware of filing/pendency of the appeal. That thereafter the respondent – widow of the employee filed a writ petition before the High Court in the year 2012. Thus, by



the time the respondent preferred a writ petition before the High Court, 15 years had passed from the date of termination and even approximately 13 years from the date on which the employee would have attained the age of superannuation i.e. from the year 1999.

7. Considering the aforesaid facts and circumstances, as such, the learned Single Judge ought not to have entertained the writ petition in the year 2012, challenging the order of termination passed on 16-12-1996, on the ground of delay and laches alone. At this stage, it is required to be noted that even despite the fact that it was specifically prayed by the respondent in writ petition before the learned Single Judge to direct the authority to decide the appeal preferred by her husband, the learned Single Judge despite the above prayer and the pending appeal, entered into the merits of the case and quashed and set aside the order of termination dated 16-12-1996.

8. The submission on behalf of the respondent is that the termination on 16-12-1996 was absolutely illegal and against the principles of natural justice is concerned, once we hold that the writ petition was barred by delay and laches, thereafter the merits are not required to be considered. As observed hereinabove, the learned Single Judge erred in entertaining the petition in the year 2012 challenging the order of termination passed in the year 1996, on the ground of delay and laches and more particularly when even otherwise if the termination order would not have been passed the deceased employee would have retired on attaining the age of superannuation in the year 1999.



9. In view of the above and for the reasons stated above, the present appeal succeeds. The impugned judgment and order dated 1-3-2019 passed by the Division Bench of the High Court as well as the judgment and order dated 17-1-2017 passed by the learned Single Judge are hereby quashed and set aside. In the facts and circumstances of the case, there shall be no order as to costs.”

In the light of aforesaid decisions and the principle laid down therein relating to entertaining petition belatedly. Petitioner’s grievance relating to payment of salary from 2008- 2016 is hereby rejected. In the result, the concerned respondent is hereby directed to examine the petitioner’s salary issue from 01.12.2016 till 30th November, 2019. It is learnt that petitioner’s retiral benefits have not been settled due to in not updating of service record as he was asked to work in different offices. Therefore, the appointing authority is hereby directed to update the service book of the petitioner, fix the increment due from 2008 to 2019 as and when it is due to him. Thereafter, re-fix his pay and pension. It is made clear that petitioner is entitled to arrears of pay during the intervening period from 01.12.2016 to 30.11.2019.

Appointing authority/competent authority is hereby directed to regulate the aforesaid issue and settle the



petitioner’s retiral benefits within a period of four months from the date of receipt of this order, failing which petitioner is entitled to litigation cost and it is quantified as Rs. 25,000/-.

With the above observations, the instant petition stands disposed of.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	10.03.2022
Transmission Date	

