

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9781 of 2016

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Umeshwar Prasad Shahi S/O Late Vijay Prasad Shahi R/O Panch Pakar, P.S.
Bathnaha, Dist.-Sitamarhi

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Labour Resource Department, Govt. of Bihar
3. The Director, Labour Employment and Training, Govt. of Bihar.
4. The Joint Director , Labour Employment and Training , Govt. of Bihar.
5. The Deputy Director, Muzaffarpur, Labour Resource Department, Govt. of Bihar.
6. The Principal, ITI, Thakurganj, Kishanganj, Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kumar Singh, Advocate
For the Respondent/s : Mr. Prabhat Ranjan Singh, AC to AAG-15

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 07-12-2023

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

2. In the instant petition, the petitioner has prayed for the
following reliefs :-

*“(i) To issue an appropriate writ order or
direction commanding the respondents to pay the
salaries of the petitioner for the period from
17.01.2006 to 07.01.2008 and also from the period
from 01.08.2010 to 31.12.2010 forthwith.*



(ii) *To issue an appropriate writ order or direction commanding the respondents to accord the benefit of 6th pay revision for which the petitioner was entitled from 01.04.2007 to 31.07.2013.*

(iii) *To issue an appropriate writ order or direction to the respondents to pay the due salaries of above noted period and revision of pay along with arrear and current re-fixation of the pension on the basis of 6th pay revision apart from full pension, leave encashment and other post retirement dues on account of benefits of 6th pay revision.*

(iv) *To issue an appropriate writ order or direction to accord the benefit of third ACP to the petitioner with effect from January, 2010 along with all consequential benefits.*

(v) *To issue an appropriate writ order or direction commanding the respondents to award the cost of litigation and suitable compensation for the loss and damages caused to the petitioner due to the inaction on the part of the respondents.*



(vi) To award any other award any other relief/s for which the petitioner is found entitles in the facts and circumstances of the case.

3. It appears that the petitioner is claiming his due salary for the period from 17.01.2006 to 07.01.2008 and also from the period from 01.08.2010 to 31.12.2010. The petitioner was appointed as Instructor in Wire-man trade in the month of January, 1980 and superannuated on 31.07.2013 and the salary with regard to the period in question the petitioner was absent for a total 720 days from 18.01.2006 to 07.01.2008 and the same was regularized on the condition that the same had been treated as extraordinary leave and it was explicitly mentioned in the said order that no pay salary shall be admissible for the said period and the aforesaid decision had taken pursuant to the provision prescribed under Rule 236 and 248 of the Bihar Service Code after concurrence/opinion rendered by the General Administration Department, Bihar, Patna.

4. So far as the retiral benefits of the petitioner is concerned, the entire payments were made to the petitioner on account of his retiral benefits and the details of which are hereunder :



(i) The gratuity amount of Rs. 8,25,386/- was paid to the petitioner on 16.12.2013 through his Bank Account.

(ii) The Group Insurance of Rs. 1,62,324/- was paid to the petitioner on 26.05.2014 through his Bank Account.

(iii) The General Provident Fund of Rs. 4,18,956/- was paid to the petitioner on 26.05.2014 through his Bank Account.

(iv) The due salary of Rs. 1,39,072/- was paid to the petitioner according to New Pay Fixation.

(v) The provisional pension till June 2015 of Rs. 24,480/- was paid to the petitioner.

(vi) The bill of earned leave of Rs. 2,19,984/- has been passed by the Treasury.

5. The final pension has already been made by the Accountant General, Bihar, Patna pursuant to the letter issued by the Principal, ITI Thakurganj (Kishanganj) and the petitioner has claimed his arrears of salary from the period 17.01.2006 to 07.01.2008 and also from the period from 01.08.2010 to 31.12.2010 and the petitioner has approached the Hon'ble Court in the year 2016.



6. The petitioner should have approached this Court within a reasonable period of time with reference to Limitation Act i.e. three years since there is no time limit for filing the writ petition. At the same time, it is necessary to take note of laches on his part. The Hon'ble Apex Court in the case of **State of Jammu and Kashmir Vs. R.K. Zalpuri and Others, reported in AIR 2016 SUPREME COURT 3006**, referring to the paragraph-20 which is as follows :

*“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 resolves;

(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.”

7. Paragraph-20 of the aforesaid judgment laid down general principle before entertaining any writ petition. The writ court is duty bound to examine delay as well as laches.

8. There is no merit in the writ petition. It is accordingly dismissed.

(Rajesh Kumar Verma, J)

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