

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19664 of 2014

Janardan Singh Son of Late Basudeo Singh Resident of Village-Singhchak,
P.S-Chanan,District-Lakhisarai.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Director General of Police, Bihar,Patna.
3. The Inspector General, Rail Police, Patna.
4. The Deputy Inspector General, Rail Police, Patna.
5. The Superintendent of Rail Police, Jamalpur.
6. The Superintendent of Police, Aurangabad

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Sinha, Advocate
For the State	:	Mr. Kumar Pankaj, AC to SC-5

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 11-12-2023

Heard Mr. Rajesh Kumar Sinha, learned counsel for the petitioner and Mr. Kumar Pankaj, learned counsel appearing on behalf of the State.

2. The present writ petition has been filed for quashing the part of the order as contained in Memo No. 669 dated 23.02.2012 issued by the Director General of Police, Bihar, Patna (respondent no. 2) whereby the increment of the petitioner of one year has been stopped and further denied the salary of the petitioner for the period which he had not been worked.

3. Learned counsel for the petitioner submits that the petitioner was initially appointed as Constable with effect from



09.11.1979. In the year 1992 when the petitioner was posted in Rail Police Station and he proceeded on leave on 18.06.1993 after obtaining prior permission from the competent authority and thereafter the petitioner was to resume his duty on 26.06.1993 but due to his illness he could not join and he had sent his application for extension of his leave with annexing medical certificate. Thereafter, the petitioner went for joining his duty on 08.11.1993 then it has been informed that he has already been suspended vide order dated 30.08.1993 due to his non-joining in the post in question.

4. A departmental proceeding was initiated against the petitioner vide order dated 03.12.1993 with memo of charges of un-authorized absence of duty and the petitioner has participated in the departmental proceeding and filed his show-cause with explanation supporting with medical certificate and the proceeding was concluded and the petitioner was awarded the punishment of dismissal from his service vide order dated 14.07.1994. Thereafter, the petitioner had filed appeal before the Appellate Authority against the order of punishment but during the pendency of appeal, the petitioner has filed CWJC No. 6671 of 1996 which was disposed of vide order dated 15.07.2010 with a direction to the authority concerned to dispose of the appeal. The appeal filed



by the petitioner was allowed and order of dismissal has been set aside vide order dated 23.02.2012. However, the salary for the period in question i.e. 26.06.1993 to 16.03.2012 has not been allowed and the petitioner has stated in his petition that the petitioner had spent the period in a departmental proceeding since 08.11.1993 to 16.03.2012 and hence there is no laches on the part of the petitioner.

5. Learned counsel for the State appears and submitted that the appellate authority has passed the order whereby increment of the petitioner of one year has been stopped and further denial the salary for the period for which the petitioner was not worked. Further submits that due to the undisciplined behaviour of the petitioner, a departmental proceeding no. 48 of 1993 was initiated and the petitioner was dismissed from service by the order of Superintendent Rail Police, Jamalpur vide order dated 14.07.1994 and the said order was confirmed by the Deputy Inspector General of Rail Police, Patna and thereafter the petitioner preferred Memorial before the Director General of Police as per Rule which was disposed of with the order that the increment of one year of the petitioner has been stopped and since the petitioner had not worked hence his salary for the period in question was not allowed. Learned counsel for the State further



submits that there is no infirmity in the proceeding and the proceeding was conducted in accordance with Rules and proper opportunity was given to the petitioner and apart from that the impugned order was passed on 23.02.2012 but the petitioner has challenged the same in the month of November, 2014 and the petitioner has accepted the order passed by the Superintendent of Rail Police, Jamalpur without making any objection.

6. The petitioner should have approached this Court within a reasonable period of time. 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)

Ibrar//-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	19.12.2023
Transmission Date	N.A.

