

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17074 of 2009

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Bishnu Deo Thakur S/O Sri Chaneshar Thakur, R/O Vill- Balia, P.S- Balia,
Distt- Aurangabad

... .. Petitioner/s

Versus

1. The State Of Bihar And Ors
2. The Principal Secretary, Department Of Health Medical Education And Family Welfare, Government Of Bihar, Patna
3. The Director-In-Chief Health Services, Bihar, Patna
4. The Deputy Secretary, Health Services, Bihar, Patna
5. The additional Secretary, Health Services, Bihar, Patna
6. The Joint Director, Health Services, Bihar, Patna
7. The Deputy Director, Health Services, Bihar, Patna
8. The Regional Deputy Director, Health Services, Magadh Commissinary, Gaya
9. The Civil Surgeon-Cum, Chief Medical Officer, Aurangabad

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Vinay Ranjan, Advocate Mr.Amar Kumar Anand, Advocate Mr.Sharad Kr. Sinha, Advocate
For the Respondent/s	:	Mr.Vivek Prasad, GP7 Mr.Binod Kr. Sinha, AC to GP7

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

Date : 26-06-2023

In the present petition, petitioner has prayed for the following relief(s):-

“That this is an application for issuance of a writ in the nature of certiorari to quash the order as contained in memo no. 2301 dated 08.11.2003 issued under the signature of Civil Surgeon-cum-Chief Medical Officer, Aurangabad whereby and whereunder the petitioner has been again dismissed from service and further for issuance of a writ in the nature



of mandamus commanding and directing the respondent authorities to reinstate the petitioner on his respective post and give other appropriate writ or writs order or direction as may deem fit and proper.”

2. The petitioner has assailed the order dated 08.11.2003 vide Memo No. 2301 issued by the Civil Surgeon-cum-Chief Medical Officer, Aurangabad by which his services have been dispensed, while dismissing him from service. Whereas the present writ petition is filed in the year 2009, there is a delay of six years. The petitioner has not explained delay and laches in presenting the writ petition belatedly.

3. Apex Court in the case of ***State of Jammu and Kashmir vs. R.K. Zalpuri and Ors.*** reported in ***AIR 2016 SC 3006*** Para 20, it is held as under:-

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corpn. v. Dosu Aardeshir Bhiwandiwalla [City and Industrial Development Corpn. v. Dosu Aardeshir Bhiwandiwalla, (2009) 1 SCC 168] , wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus: (SCC p. 175, para 30)

“30. 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.”

[Underline Supplied]

4. One of the principle laid down in the aforementioned judgment is before entertaining writ petition, it is duty of the Court to examine delay and latches. Admittedly, the petitioner had cause of action in the year 2003. Even if the provision of CPC is taken into consideration in that event he should have approached this Court within a reasonable period of three years from the date of cause of action accrued by him. Whereas the delay and latches is not explained by the petitioner so as to entertain the present petition insofar as challenging Memo No. 2301 dated 08.03.2011.

5. Accordingly, the present petition stands dismissed on the ground of delay and latches.

(P. B. Bajanthri, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.07.2023
Transmission Date	NA

