

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17706 of 2015

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Lalita Devi wife of Late Dhruvnath Singh, resident of village+P.O.
Bhikhampur, P.S.- Bhagwanpur Hat, District- Siwan

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Rural Development Department, Government of Bihar, Patna.
2. The Director, Panchayati Raj, Bihar, Patna
3. The District Magistrate, Siwan
4. The Deputy Development Commissioner, Siwan
5. The Panchayati Raj Officer, Siwan
6. The District Treasury Officer, Siwan
7. The Sub Divisional Officer, Maharajganj, District Siwan
8. The Block Development Officer, Lakari Naviganj, District- Siwan

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Umesh Kumar Mishra, Advocate
For the State	:	Mr. Kumar Alok- SC-7
		Mr. Satyeshwar Prasad, AC to SC-7

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 01-12-2023

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

2. The present writ petition has been filed by the
petitioner, who is widow of late Dhruvnath Singh, died on
25.02.2015 after his retirement.

3. The petitioner has filed the present writ petition for
the following reliefs :-



“(i) For issuance of an appropriate writ in the nature of certiorari for quashing the order as contained in memo no. 1223 dated 25.10.2011 issued under the signature of the District Magistrate, Siwan, by which the husband of the petitioner, namely, late Dhruvnath Singh, the then Panchayat Secretary, Block Office Lakari Naviganj has been imposed the following punishment :-

a) With immediate effect within 10 installments be recovered from salary of Rs. 1,39,305.00/-

b) Two increments is being stopped with non cumulative effect.

c) During suspension period he will be only entitled for subsistence allowance only.

The aforesaid punishment be entered in his service book without appreciating the facts and circumstances of the case.

(ii) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to pay Rs. 1,39,305.00/- which might have been recovered from his salary and to not withheld 2 increments with non



cumulative effect and to pay the salary during the suspended period.

(iii) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to revise her family pension without the aforesaid three punishment to her husband.

(iv) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner will be found entitled in the facts and circumstances of the case.

4. The husband of the petitioner while discharging his duty as Panchayat Secretary in Gram Panchayat Raj Lakari Naviganj Block-Lakari Naviganj, District- Siwan, a departmental proceeding was initiated against the husband of the petitioner and the District Magistrate, Siwan (respondent no. 3) has passed an order as contained in Memo No. 1223 dated 25.10.2011 has imposed the following punishment :

(i) With immediate effect within 10 installments be recovered from salary of Rs. 1,39,305.00/-



(ii) Two increments is being stopped with non cumulative effect.

(iii) During suspension period he will be only entitled for subsistence allowance only.

5. The aforesaid order was passed by the District Magistrate, Siwan in the light of the enquiry report by the Block Development Officer, Lakari Naviganj and without following the procedure as prescribed under the law, the District Magistrate, Siwan has imposed punishment upon the husband of the petitioner and the departmental proceeding was conducted against the husband of the petitioner without following the norms as prescribed under the Rules.

6. Learned counsel for the State, on the other hand, opposed the prayer and submits that husband of the petitioner was died in the year 2015 and during his lifetime he has not challenged the punishment order and after the death of husband of the petitioner, the petitioner has approached this Hon'ble Court.

7. 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.”

8. 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.

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

(Rajesh Kumar Verma, J)

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

