

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10729 of 2021

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1. Ramanand Tiwari S/O late Baikunth Maharaj R/O village - Manjhan, P.S. - Belaganj, District- Gaya.
 2. Rajendra Rai S/O late Ram Lagan Rai R/O village - Bari Badalpura, P.S. - Khagaul, District- Patna.
 3. Etawari Ram @ Atawar Ram S/O late Ram Sagar Paswan R/O village - Belsar Chowk, P.O. - Belsar, P.S. - Mehendiya, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Principal Secretary, General and Administrative Reforms Department, Government of Bihar, Patna.
4. The Engineer- in- Chief, Water Resources Department, Government of Bihar.
5. The Chief Engineer, Water Resources Department, Anishabad, Patna.
6. The Superintending Engineer, Water Resources Department, Ganga Sone flood Control Circle, Patna.
7. The Executive Engineer, Sone Canal Division, Patna.
8. The District Magistrate, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Ms.Vagisha Pragya Vacaknavi, Adv
For the Respondent/s : Mr. Vijay Kumar Verma, AC to GA-2

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 19-09-2023 1. Heard learned counsel for the petitioners and
learned counsel for the respondents.

2. The petitioners claim to have been working since
prior to 1st August 1985. The petitioners approached this court
for regularisation in CWJC No. 2080 of 2000, when this court
directed as follows:



"In these circumstances, the Government is directed to take a decision on this score as quickly as possible but not later than three months from today. Until such time such a decision is taken and appropriate posts are created enabling regularization of the petitioners in terms of the 1993 policy of the Government reiterated in 2006, the petitioners shall be granted remuneration at the lowest time scale applicable to the regular posts available in the Government, holders of which posts discharge similar duties as that of the petitioners."

3. When the order of the Court was not complied, the petitioners filed a contempt application bearing in M.J.C. No. 1127 of 2008. The petitioners' claim was rejected by orders dated 12-10-2009 and 3-11-2009 produced in the contempt proceedings. The contempt proceedings were thus dismissed, giving liberty to the petitioners to take recourse against these two orders.

4. These two orders, issued 13 years back, are assailed by way of the instant proceedings.

5. The learned counsel submits that when a person was regularised, having inferior claim that of the petitioners



under order dated 7-2-2020, the petitioners have approached this Court by way of the instant proceedings.

6. The submission advanced by the learned counsel for the petitioners, in the opinion of this Court, is insufficient to revive the stale claim of the petitioners arising out of orders passed more than 13 years back.

7. Such long delay cannot be brushed aside lightly by this court exercising extra ordinary and discretionary jurisdiction under Article 226 of the Constitution of India, in view of decision of the Hon'ble Apex Court in the case of ***Chennai Metropolitan Water Supply & Sewerage Board & Ors. versus T.T. Murali Babu*** reported in ***(2014) 4 SCC 108***, paragraph 16 to 18 of which are relevant, which reads as follows:-

“16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis is at a belated



stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant — a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.

17. In the case at hand, though there has been four years' delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinise whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons — who compete with “Kumbhakarna” or for that matter “Rip Van Winkle”. In our considered opinion, such delay does



not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold.

18. Having dealt with the doctrine of delay and laches, we shall presently proceed to deal with the doctrine of proportionality which has been taken recourse to by the High Court regard being had to the obtaining factual matrix. We think it appropriate to refer to some of the authorities which have been placed reliance upon by the High Court.”

8. The writ petition, in the opinion of the Court, is barred by delay and laches and is dismissed.

(Madhuresh Prasad, J)

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