

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.9559 of 2023**

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Birendra Prasad @ Birendra Raut @ Birendar Prasad S/o Late Ram Nath  
Raut R/o Village Amaunw P.S. Baniyapur District Saran, Bihar.

... .. Petitioner/s

Versus

1. The Punjab National Bank Through its Managing Director and Chief Executive Officer.
2. The Zonal Manager-cum-Appellate Authority, Punjab National Bank, Integrated Zonal Office, Chanakya Towers, R. Block, Patna.
3. Senior Regional Manager, Punjab National Bank, Muzaffarpur.
4. The Branch Officer, Punjab National Bank, Baniapur Branch, Saran.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Patanjali Rishi, Advocate

For the Respondent/s : Mr.Mritunjay Kumar, Advocate

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**  
**ORAL JUDGMENT**

**Date : 18-12-2023**

1. The present writ petition has been filed for quashing the order dated 30.03.2006, passed by the Senior Regional Manager, Punjab National Bank, Muzaffarpur i.e. the respondent no.3. The petitioner has also challenged the appellate order dated 04.09.2006, passed by the Zonal Manager-Appellate Authority, Punjab National Bank, Integrated Zonal Office, Patna, i.e. the respondent no.2, whereby and whereunder the appeal, filed by the petitioner, has been rejected.

2. The brief facts, according to the petitioner, are that the petitioner was working as part time sweeper at the Punjab



National Bank's Baniapur Branch at Saran (Chapra) and was also granted promotion, however, on account of local village disputes, the petitioner was implicated in a criminal case, which culminated into S.T. No. 240 of 1985, wherein the petitioner was convicted vide judgment dated 25.06.2004, passed by the Ld. Presiding Officer, Fast Track Court No.1, Saran at Chapra, for the offences under Section 307/149 and Section 147 of the Indian Penal Code, 1860 and was sentenced to undergo rigorous imprisonment for five years under Section 307/149 of the Indian Penal Code, 1860 as also for one year under Section 147 of the Indian Penal Code, 1860. The said judgment of conviction and sentence was challenged by the petitioner by filing a criminal appeal, before this Court bearing Criminal Appeal No.446 of 2004, whereupon the petitioner has been granted bail by an Order dated 27.08.2004. It is stated that while the petitioner was discharging his duties satisfactorily, suddenly a show cause dated 05.02.2005 was served upon the petitioner vide letter dated 10.02.2005, asking him to explain as to why he should not be dismissed from service on account of his conviction in a criminal case, to which the petitioner had filed his reply dated 12.02.2005, nonetheless, the petitioner was dismissed from service by the impugned order dated 30.03.2006, passed by the



respondent no.3. The petitioner had then challenged the said order dt. 30.03.2006 by filing an appeal, however, the same has also stood dismissed by an order dated 04.09.2006, passed by the respondent no.2.

3. The Ld. counsel for the petitioner has submitted that by an order dt. 27.08.2004, passed by a co-ordinate Bench of this Court in Crl. Appeal No.446 of 2004, the petitioner has been directed to be released on bail, pending final hearing of the appeal which has stood admitted, hence it is submitted that the petitioner is required to be given benefit of the same and reinstated back in service.

4. Per contra, the learned counsel appearing for the respondents has at the outset, raised a preliminary objection regarding the maintainability of the present writ petition on the ground of delay and laches inasmuch as the order of punishment dated 30.03.2006 as also the appellate order dated 04.09.2006 have been challenged belatedly before this Court in the year 2023, after a huge delay of about 17 years. It is also submitted that though it is true that the petitioner has been dismissed from service on account of having been convicted and sentenced vide the aforesaid judgment dated 25.06.2004, however, neither the conviction nor the sentence has been suspended by a co-ordinate



Bench of this Court vide the aforesaid order dated 27.08.2004 and the petitioner has merely been directed to be released on bail, thus unless and until the criminal appeal, filed by the petitioner, as aforesaid, is allowed, no relief can be granted to the petitioner.

5. I have heard the learned counsel for the parties and perused the material on record. The law is well settled, inasmuch as the Hon'ble Apex Court in a catena of judgments has held that while exercising extraordinary and equitable jurisdiction under Article 226 of the Constitution of India, the Constitutional Court, while protecting the rights of citizens, should simultaneously keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the Court belatedly, at his own leisure or pleasure, the writ Court is not required to grant any indulgence to such indolent person and on the ground of delay and laches alone, the writ Court ought to throw the petition overboard at the very threshold. In this regard, reference be had to the following judgments:-

**“(i) *Chennai Metropolitan Water Supply & Sewerage Board & Others vs. T.T. Murali Babu*, reported in (2014) 4 SCC 108.**

**(ii) *State of Uttranchal & Anr. vs. Shiv Charan Singh Bhandari & Ors.*, reported in 2013 AIR**



***SCW 6627.***

(iii) ***C. Jacob vs. Director of Geology & Mining & Anr.***, reported in ***AIR 2009 SC 264.***

(iv) ***State of Jammu & Kashmir vs. R.K. Zalpuri & Others***, reported in ***AIR 2016 SC 3006.***

(v) ***State of Tamil Nadu vs. Seshachalam***, reported in ***(2007) 10 SCC 137.***”

6. In fact, in a judgment, rendered by the Hon’ble Apex Court in the case of ***P. S. Sadasivaswamy vs. State of Tamil Nadu***, reported in ***(1975) 1 SCC 152***, the Hon’ble Apex Court has held that in a service matter/promotion matter, an aggrieved person should approach the Court at least within six months or at the most a year of the arising of a cause of action and it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 of the Constitution of India, in the case of persons who do not approach it expeditiously for relief and such petitions should be dismissed in limine, inasmuch as entertaining such petitions is a waste of time of the Court, the same clogs the work of the Court and impedes the work of the Court in considering legitimate grievances. In yet another judgment, rendered by the Hon’ble Apex Court in the case of ***Naresh Kumar vs. Department of Atomic Energy & Others***, reported in ***(2010) 7 SCC 525***, the



Hon'ble Apex Court has held that the High Court was not in error while dismissing the writ petition on the ground of unexplained delay and laches of about seven and a half years.

7. At this juncture, it would be gainful to reproduce paragraphs No. 1, 16, 17 and 34 of the Judgment rendered by the Hon'ble Apex Court in the case of ***Chennai Metropolitan Water Supply & Sewerage Board*** (Supra), herein below:-

*“1. The present appeal, by special leave, is directed against the judgment and order dated 22-11-2012 passed by the High Court of Judicature of Madras in Chennai Metropolitan Water Supply & Sewerage Board v. T.T. Murali Babu whereby the Division Bench has affirmed the judgment and order dated 21-7-2011 in WP No. 25673 of 2007 whereunder the learned Single Judge had allowed the writ petition, and after setting aside the punishment of dismissal, directed reinstatement of the respondent with continuity of service but without back wages.*

*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 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.*

*34. Judged on the anvil of the aforesaid premises, the irresistible conclusion is that the interference by the High Court with the punishment is totally unwarranted and unsustainable, and further the High Court was wholly unjustified in entertaining the writ petition after a lapse of four years. The result of aforesaid analysis would entail overturning the judgments and orders passed by the learned Single Judge and the Division Bench of the High Court and, accordingly, we so do."*

8. Considering the facts and circumstances of the case and for the reasons mentioned hereinabove in the preceding paragraphs, this Court finds that the present writ petition is fit to be dismissed on the ground of delay and laches alone inasmuch as the petitioner has approached this Court belatedly after an



unexplained delay of 17 years. Thus considering the principles laid down by the Hon’ble Apex Court in a catena of judgments, as referred to herein above in the preceding paragraphs, as also considering the maxim- “equity aids the vigilant and not those who slumber on their rights”, this Court is of the view that since the petitioner has not filed the present writ petition within a reasonable period of time, this Court is not under any legal obligation to entertain the writ petition, especially considering the fact that the petitioner has not offered any reason whatsoever, for the enormous delay which has taken place in approaching this Court, hence, the present writ petition is dismissed on the ground of delay and latches.

**(Mohit Kumar Shah, J)**

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