

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10718 of 2012

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Chandradeo Prasad Singh Son Of Late Basant Ray Residing At Lodipur, P.O.
Lakhanpur, Police Station- Punpun, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Mantri Mandal Sachiwalaya Civil Aviation, Patna.
2. Director Cum Special Secretary, Mantrimandal Sachiwalaya, Civil Aviation Department, Patna
3. Under Secretary, Civil Aviation Department, Civil Aerodrum, Patna- 14
4. Administrative Officer Civil Aviation Department, Civil Aerodrum, Patna- 14
5. The Under Secretary, Finance Department, Government Of Bihar
6. The Deputy Secretary, General Administrative Department, Government Of Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vishwa Ranjan Choudhary, Advocate
For the Respondent/s	:	Mr. Sunil Kr. Mandal, SC 3
		Mr. Bipin Kumar, AC to SC 3

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 12-12-2023

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 for quashing the letter no. 606 dated 16.09.2002 of Administrative Officer, Civil Aviation Department, Government of Bihar, whereby the respondent has directed to the petitioner that annual increment will be given after passing the departmental typing examination conducted by Personal and Administrative Department of Bihar.



3. Learned counsel for the petitioner submits that the consequential benefits be paid to the petitioner as well as pension be fixed according to payment after annual increment has been paid.

4. The petitioner had appointed on the post of Typist in pay scale of Rs. 1320-30-1560-40-2040 by respondent no. 2 vide his letter no. 32/94-03 dated 07.04.1995.

5. Pursuant to the aforesaid letter, the petitioner has joined on 08.04.1995 in office of Civil Aviation Department, Civil Aero drum, Patna and service of the petitioner has been confirmed on 05.01.2002 w.e.f 08.04.1998.

6. The petitioner had given application to the respondent on 07.01.2001 and requested that due to age of the petitioner is above 50 years and as per the circular of the State Government vide letter no. 11691 dated 09.11.1993 which suggest that whose employer of State Government who has attaining 50 years of age can be exempted from the departmental examination. The petitioner has not received any annual increment from 01.04.2005 till his date of retirement i.e. 31.01.2011. The petitioner had approached this Hon'ble Court in the year 2012 challenging the order which was passed in the year 2002.

7. Learned counsel appearing on behalf of the State



on the other hand vehemently opposed the prayer and submits that the petitioner has challenged the order which was passed in the year 2002 and he has filed the writ petition in the year 2012 and before filing of the writ petition the petitioner has retired from the service and during his entire service he has not challenged the order dated 16.09.2002 and after his retirement he has approached this Hon'ble Court.

8. The petitioner should have approached this Hon'ble Court within reasonable period of time with reference to Limitation Act i.e. 3 years since there is no time limit of filing the writ petition. At the same time, it is necessary to take note of the laches on his part.

9. The Hon'ble Apex Court in the case of **State of Jammu & Kashmir vs. R.K. Zalpuri** and others reported in **AIR 2016 (SC) 3006** referred to 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 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.”

10. Paragraph 20 of the aforesaid judgment laid down general principals before entertaining the writ petition. The Writ Court is duty bound to examine delay as well as laches.

11. Accordingly, this writ petition stands dismissed on the ground of delay and laches.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14.12.2023
Transmission Date	N/A

