

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.38 of 2022

In
Civil Writ Jurisdiction Case No.16759 of 2018

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Shivjee Rai Son of Late Munni Rai Resident of Village - Shopalpur, P.S. -
Tarari, District- Bhojpur.

... .. Appellant/s

Versus

1. The State of Bihar Through the Additional Secretary, Bihar, Patna.
2. Principal Secretary, Water Resources Department then Irrigation Department
Sone Canal, Bihar, Patna.
3. Engineer in Chief, Water Resources Department then Irrigation Department
Sone Canal, Bihar, Patna.
4. Chief Engineer, Then Then Irrigation Department- Sone Canal, now Water
Resources Department, Dehri on Sone, Rohtas.
5. Secretary Pravaidikh, Chief Engineer, Office, Irrigation Srijan, Water
Resources Department, Dehri.
6. Superintending Engineer, The Irrigation Department - Sobne Canal, now
Water Resources, Department, Ara, Bhojpur.
7. Executive Engineer, then Irrigation Department - Sone Canal, Water
Resources Department, Ara, Bhojpur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Abhinav Srivastava
For the Respondent/s : Mr. Anjani Kumar (AAG-4)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 23-01-2024

The present appeal has been preferred challenging the
order dated 21.12.2021 passed by the learned Single Judge in
CWJC No. 16759 of 2018 by which the writ petition so
preferred was dismissed on the ground of delay and laches.

2. The brief facts of the case is/are as follows:-



3. The petitioner while being posted as Irrigation Revenue Inspector was dismissed from service following departmental proceeding vide memo No. 66 dated 22.11.1994 passed by the Director, Revenue Administration, Water Resources Department, Government of Bihar, Patna (for short 'the Department'). The criminal proceeding was also initiated against him vide Nawanagar P.S. Case No. 06/1990 under Sections 409, 420, 467, 477, 477A and 379 of the Indian Penal Code.

4. In the year 2018 (13.02.2018), the appellant-petitioner was acquitted in the criminal case which prompted him to file writ petition for quashing of the order passed by 'the Department' on 22.11.1994 as incorporated above.

5. The CWJC No. 16759 of 2018 was taken up by the learned Single Judge on 21.12.2021 and taking note of the fact that the order of 1994 has been assailed after 24 years, the writ petition was dismissed.

6. The observation of the learned Single Judge needs to be incorporated herein below:-

Petitioner has assailed the order of dismissal dated 22.11.1994 vide Memo No. 66 passed by the Director, Revenue



Administration, Water Resources Department, Govt. of Bihar, Patna.

Petitioner while holding the post of Irrigation Revenue Inspector was subjected to parallel proceedings. In a disciplinary proceedings it was concluded in imposing penalty of dismissal from service on 22.11.1994, Insofar as criminal proceedings are concerned, it was pending consideration till 13.02.2018, the date on which he was acquitted in Nawanagar P.S. Case No. 06/1990 for the offences punishable under Sections 409, 420, 467, 468. 477, 477A and 379 of the Indian Penal Code passed by Judicial Magistrate, I Class, Buxar, Bihar.

Parallel proceedings are two independent proceedings which are lodged against the petitioner. Outcome of criminal proceedings departmental proceedings are entirely different. Criminal proceedings were lodged against alleged offences under the Indian Penal Code whereas departmental proceedings were initiated with reference to alleged misconduct, therefore, they are two separate proceedings therefore awaiting result of



*the criminal proceedings and challenging the order of dismissal dated 22.11.1994 without explaining the delay and laches the present petition cannot be entertained and it is to be rejected at threshold. Hon'ble Apex Court decision in the case of **State of Jammu and Kashmir Vs. R.K. Zalpuri and others reported in AIR 2016 Supreme Court 3006** held as under:-*

*"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 an 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;

(1) grant of relief is against public policy or barred by any valid law? and host of other factors."

One of the principles laid down in the aforesaid decision is relating to entertaining petition under Article 226 of the Constitution with reference to delay and laches. In the present case delay and laches is to be taken note off. The petitioner has not explained the undue delay and laches from 11.1994 till the date on which the present petition is presented.

In the light of these facts and circumstances, the petitioner has not made a case. Accordingly, the present writ petition stands dismissed.

7. Aggrieved, the present appeal.

8. Though Mr. Abhinav Shrivastava appearing for the appellant tried to assail the order of the learned Single Judge, he could not explain why the appellant-petitioner took twenty four years to challenge the order of 1994.

9. We do not find any merit in the petition. The



learned Single Judge has reasoned out the ground for dismissal of the writ petition. We fully agree with it.

10. The appeal stands dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Adnan/-

AFR/NAFR	
CAV DATE	
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