

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1239 of 2019

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Kumar Rambalak S/o. Sri Ramashray Prasad resident of Village- Ghosrawan,
P.S. Giriyak, District- Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Department of Energy,
Govt. of Bihar, Patna
2. Chief Managing Director-cum- Chairman, Bihar State Power (Holding)
Company Limited.
3. Managing Director, South Bihar Power Distribution Company Limited.
4. Deputy General Manager (Human Resource/ Administration) Bihar State
Power (Holding) Company Bihar, Patna
5. Officer on Special Duty in South Bihar Power Distribution Company
Limited South Bihar Power Distribution Company Limited.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravi Ranjan, Advocate
For the Respondent/s : Mr. Subhash Pd. Singh (GA-3)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 08-10-2024 Heard Learned Counsel for the petitioner and

Learned Senior Counsel for the Bihar State Power (Holding)

Company Limited.

2. Learned Counsel for the petitioner submits that the
present writ petition has been filed for setting aside the order
dated 14.12.2013 contained in resolution No.2043 on the ground
of limitation by virtue of letter No.1392 dated 18.09.2017 as
well as letter No.638 dated 29.03.2018 by which the Appellate
Authority and the Revisional Authority both had rejected the
case of the petitioner on the ground of limitation.



3. Learned Counsel for the petitioner submits that he has annexed the series of prescriptions and submits that the petitioner was suffering from paralytic attack and after long treatment he has survived and only thereafter he preferred appeal before the Appellate Authority. Counsel further submits that the Appellate and Revisional Authority had not passed order on merit and only on the point of limitation his appeal and revision had been rejected.

4. Learned Senior Counsel for the Bihar State Power (Holding) Company Limited submits that the petitioner has not raised any procedural lacunae in the order and further submits that his memorandum of appeal and revision have been rightly rejected as barred by limitation.

5. After hearing the parties, it transpires to this Court that both orders i.e., order contained in Letter No.1392 dated 18.09.2017 and Letter No.638 dated 29.03.2018 have been passed only on the ground of limitation filed under the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as the 'CCA Rules, 2005') by the Appellate and Revisional Authority respectively. In spite of the fact that Annexure-6 series are the documents, which are prescriptions of Paras Hospital and various doctors indicating



the prolong illness of the petitioner.

6. In this regard, this Court finds that Rule 25 of the CCA Rules, 2005 clearly states and talks about the period of limitation for appeal and described as follows:

“25. Period of limitation for appeals.- No appeal preferred under this Part shall be entertained unless such appeal is preferred within a period of forty five days from the date on which a copy of the order appealed against is delivered to the appellant:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period, if he is satisfied that the appellant had sufficient cause for not preferring the appeal in time.”

7. It transpires to this Court upon perusal of the provision that power has been embedded in the Appellate Authority that the Appellate Authority may entertain the appeal after expiry of the said period, if he is satisfied that the appellant has sufficient cause for not preferring the appeal in time. This Court is of the firm view that when discretion has been vested in any Authority then the said discretion has to be implemented definitely and applied judiciously. Here in the present case, the



Appellate Authority has not described in his appellate order that as to why he has not entertained the appeal, particularly, when discretion is vested to him to condone the delay.

8. In this background, without entering into the merit or demerit of the case, this Court hereby set aside both orders challenged by the petitioner in letter No.1392 dated 18.09.2017 as well as letter No.638 dated 29.03.2018 passed by the Appellate Authority and the Revisional Authority and it is directed to the petitioner to prefer appeal within 30 days after Puja Holiday and Appellate Authority is directed to hear the appeal of the petitioner on merit and directed to condone the delay in filing the same.

9. With this direction, the writ petition stands disposed off.

(Dr. Anshuman, J)

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