

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9807 of 2016

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Avinash Kumar Trivedi son of Sri Shankar Prasad Trivedi resident of Village - Babhantoli, P.S. and District - Sheohar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary to the Government, Department of Home (Police), Government of Bihar, Patna
2. The Director General-cum-Inspector General of Police, Bihar, Patna.
3. The Joint Secretary to the Government, Department of Home Police, Government of Bihar, Patna.
4. The Additional Director General of Police Headquarter, Bihar, Patna.
5. The Deputy Inspector General of Police, Munger Range, Bihar.
6. The Superintendent of Police, Munger at and PO - Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Akash Keshav, Advocate
	:	Ms. Akansha Malviya, Advocate
	:	Mr. Amrendra Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Naman Nayak, A.C.to A.A.G.-13

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 11-01-2024

Heard learned counsel appearing for the petitioner and
learned counsel appearing for the State.

2. The present writ application has been filed for quashing the order No.844/2002 dated 12.04.2022 passed by the respondent No.6 by which the services of the petitioner was terminated with immediate effect.

3. The petitioner was appointed as Police Constable in the year 1996 by the respondent No.6 after filling the due prescribed Rules for appointment on the ground of bravery and



exemplary work of the petitioner. From 1996 up to 2002 the service of the petitioner was satisfactory and there was no complain against the petitioner.

4. Learned counsel for the State has filed a counter affidavit stating that the present writ application is suffered from the delay and laches on the part of the petitioner. The impugned order was passed in the year 2002 and the present writ application has been filed in the year 2016 after a long delay of 14 years. Learned counsel for the State further submits that in fact the service of the petitioner was never satisfactory due to overstay by the petitioner, the duty of the petitioner were withheld on several times vide Munger District Order No.(s) 459/97, 597/98, 1552/98, 1625/98, 2189/98, 643/99 and 16/2000. Apart from the aforesaid, the petitioner was also suspended with effect from 08.08.2000 and the authority has fixed his Headquarter at Police Line, Munger but the petitioner has not given report of his joining on Guard Duty at Sadar Hospital, Munger and remained absent from his duty without information or leave. The subsistence allowance of the petitioner was also withheld due to non-reporting the joining at his Headquarter fixing at Police Line, Munger. Thereafter, the departmental proceeding No.19/01 was initiated against the petitioner. In the departmental proceeding, the petitioner was



found guilty by the final order passed in Munger District Departmental Proceeding No.19/2001. The suspension of the petitioner was revoked vide Munger District Order No.1622/2001 from the date of his joining on 13.07.2001. Again the pay of the petitioner was withheld due to remain absent from his duty from 05.10.2001. The petitioner was proceeded on leave from 22.09.2001 on 12 days casual leave but die not report his joining on time and absented from his duty from 05.10.2001 and the petitioner was again suspended vide Munger District Order No.758/2002 by fixing his Headquarter at Police Line, Munger. It is pertinent to mention that the service of the petitioner shows that the petitioner is not fit for satisfactory service in a disciplined Police Department. Learned counsel for the State has relied upon a judgment of the Hon'ble Supreme Court in the case of **Union of India and Ors. Vs. M.K. Sarkar**, reported in **(2010) 2 SCC 59**.

5. It appears that the petitioner has approached this Court after delay of 14 years and in view of the judgment reported in **Union of India and Ors. Vs. M.K. Sarkar**, reported in **(2010) 2 SCC 59** (Supra), petitioner is not entitled for the relief as sought for in the writ application.

6. The petitioner should have approached this Court within a reasonable period of time with reference to Limitation Act



i.e. three years since there is no time limit for filing the writ petition. At the same time, it is necessary to take note of laches on his part. The Hon'ble Apex Court in the case of **State of Jammu and Kashmir Vs. R.K. Zalpuri and Others**, reported in **AIR 2016 SUPREME COURT 3006**, referring to the 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 resolves;

(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.*”

7. Paragraph-20 of the aforesaid judgment laid down general principle before entertaining any writ petition. The writ court is duty bound to examine delay as well as laches.

8. There is no merit in the writ petition. It is accordingly dismissed.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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