

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6713 of 2023

Radhe Shyam Sharma, S/o- Late Vindeshwar Prasad Singh R/o- East Patel
Nagar, Road No. -6 , P.S.- Shastri Nagar, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar, through Secretary Department of law Government of Bihar, Patna.
2. The District and Sessions Judge (Bhagalpur)
3. The Registrar Civil Judge, (Bhagalpur)
4. The Director, (General Provident Fund).
5. The Accountant General, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Smiti Bharti
For the Respondent/s	:	Mr.Prasant Pratap (Gp 2)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 31-07-2024

Heard learned counsel for the petitioner and
learned counsel for the respondents.

2. The petitioner has filed the instant application
praying for a direction to the respondents to make payment of
the retiral benefits of the petitioner under the heads of General
Provident Fund, Group Insurance and arrears of salary, the



petitioner having superannuated as ad hoc Additional District & Sessions Judge, Bhagalpur on 31.7.2012.

3. The case of the petitioner in brief is that having joined the Bihar Judicial Service as Munsif on 28.5.1985, he worked till his superannuation on 31.7.2012. In spite of having represented before the learned Additional District & Sessions, Bhagalpur on 17.12.2012 and 22.4.2013, he was not given his post retiral dues. The Registrar General, Patna High Court sent a copy of one of the petitioner's representation to the District & Sessions Judge who replied vide his letter dated 26.9.2014 stating therein that the petitioner had not cleared his electricity bill and as such the PWD (Building Division), Bhagalpur had not provided the clearance certificate and no dues certificate could not be issued to him. It is submitted by learned counsel for the petitioner that he received yet another letter on 3.1.2018 from the Drawing and Disbursing Officer, District Bhagalpur asking him to provide the statement of the deduction amount. Not having received his post retiral dues, the petitioner filed the instant writ application in the year 2023.

4. Counter affidavits have been filed on behalf of the respondents.

5. Learned counsel appearing for the respondent no.



2 submitted that inspite of the petitioner having been intimated and asked to submit the required BTC Form no. 56 prescribed under Rule 371 of the Bihar Treasury Code and other required documents by Letter no. 209 dated 31.05.2013 as also several reminders as contained in Letter no. 56793 dated 28.10.2014 and Letter no. 693 dated 03.01.2018, till date the petitioner has not submitted the said deduction statement in absence of which the group insurance amount cannot be processed. Similarly the petitioner has also not provided the details of his salary brought prior to his posting under the Bhagalpur Judgeship on 28.05.1990. The pension papers submitted by the petitioner were without the necessary enclosures as required under Letter no. 2001 dated 17.02.2011 of the State Government, information of which was given to the petitioner as far back as by Letter no. 612 dated 20.12.2012.

6. Besides the petitioner not having submitted the required documents to enable the respondents to take steps for payment of the retiral and other dues, it would be evident that having superannuated on 31.7.2012, the petitioner in his writ application does not give any explanation what-so-ever for the delay and laches on his part in filing the instant application but only refers to his two representations which were filed in the



year 2012 and the last on 22.4.2013 i.e. 10 years before filing of the instant application.

7. The Hon'ble Supreme Court in the case of Surjeet Singh Sahni vs. State of Uttar Pradesh and Others; (2022) 15 SCC 536 has held that mere representation does not extend the period of limitation and the aggrieved person is required to approach the Court expeditiously and within a reasonable time. It further held that if it is found that the person is guilty of delay and laches, the Court should dismiss the case at the threshold. Paragraph nos. 6 to 8 of the judgment are quoted here-in-below for ready reference:-

“ 6. The High Court by passing the order dated 7-4-2017 as such did not realise and/or appreciated that the writ petition itself was required to be dismissed on the ground of delay and laches as the same was filed after a period of 11 years from the date of execution of the sale deed under which the right was claimed. We have come across number of such orders passed by the High Courts directing the authorities to decide the representation though the representations are made belatedly and thereafter when a decision is taken on such representation, thereafter it can be said on behalf of the petitioner that the fresh cause of action has arisen on rejection of the representation.

7. Therefore, when such orders are passed by the High Courts either relegating the petitioner to make a



representation and/or directing the appropriate authority to decide the representation, the High Courts have to consider whether the writ petition is filed belatedly and/or the same is barred by laches and/or not, so that in future the person who has approached belatedly may not contend that the fresh cause of action has arisen on rejection of the representation. Even in a case where earlier representation is rejected, the High Court shall decide the matter on merits.

8. As observed by this Court in a catena of decisions, mere representation does not extend the period of limitation and the aggrieved person has to approach the Court expeditiously and within a reasonable time. If it is found that the writ petitioner is guilty of delay and laches, the High Court should dismiss it at the threshold and ought not to dispose of the writ petition by relegating the writ petitioner to file a representation and/or directing the authority to decide the representation, once it is found that the original writ petitioner is guilty of delay and laches. Such order shall not give an opportunity to the petitioner to thereafter contend that rejection of the representation subsequently has given a fresh cause of action.”

8. In view of the facts and circumstances of the case, the application of the petitioner being grossly delayed and the petitioner even today not stating that the documents as required (on the basis of the letters brought on record by the petitioner himself) has been provided, the Court finds no reason



to entertain the instant application and finds no merit in the case.

9. The application is dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Harsh/-

AFR/NAFR	NAFR
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