

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1266 of 2012

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AMRENDRA JHA Son Of Late Mahendra Jha Resident Of Village And P.O.-
Sukhnagar, P.S.-Pratapganj, District-Supaul

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Food And Civil Supplies Department, Government Of Bihar, Patna
3. The Bihar State Warehousing Corporation, Mauryalok Complex, Patna-800001 Through Tis Managing Director
4. The Managing Director, Bihar State Warehousing Corporation, Mauryalok Complex, Patna-800001
5. The Secretary, Bihar State Warehousing Corporation, Mauryalok Complex, Patna-800001
6. The Divisional Manager, Bihar State Warehousing Corporation, Mauryalok Complex, Patna-800001

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shanti Pratap, Advocate
For the B.S.W.H.C.	:	Mr. Mukund Mohan Jha, Advocate
For the State	:	Mr. Parijat Saurav AC to AAG-13

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

8 02-02-2024 Heard Mr. Shanti Pratap, learned counsel for the petitioner and Mr. Parijat Saurav, learned counsel appearing on behalf of the State as well as Mr. Mukund Mohan Jha, learned counsel appearing on behalf of the Bihar State Warehousing Corporation.

2. The present writ petition has been filed for quashing the Office Order No.850, contained in Memo No. 4371, dated 17.12.1996 (*Annexure-1*) issued under the signature of the respondent no.4 by which the petitioner has been



terminated from the post in question.

3. Learned counsel for the petitioner submits that the petitioner was initially appointed as casual assistant on daily wages basis and he was posted in Supaul Centre of Bihar State Housing Corporation and thereafter the petitioner has joined on 28.09.1981. In the year, 1984 the petitioner has filed a representation before the respondent no.4 requesting him to consider the case of the petitioner for regularization of the services against the sanctioned and vacant posts but nothing has been done. Thereafter, the petitioner has filed several reminders.

4. Learned counsel for the petitioner further submits that in the year 1991, the petitioner along with Wasim Ahmad and Dina Nath Singh Baghel was appointed on the post of Assistant in the pay scale of Rs. 1200-1800 on provisional basis on the basis of the decision of Executive Committee of the Corporation. In the year 1995, the petitioner has filed the representation before the respondent no.4 requesting therein to consider the case for regularization of his services like the other similarly situated persons, whose services have been regularized on earlier date. Thereafter in the year 1995, the services of the petitioner were regularized w.e.f. 11.08.1983. All of the sudden in the year 1996, a letter dated 13.07.1996 issued under the



signature of the respondent no.4 by which the petitioner was directed to submit his show cause reply within a month as to why his service be not terminated on the ground that the procedure as laid down in Rule 7 of the Staff Regulation as well as reservation rules were not followed at the time of the appointment of the petitioner. Pursuant to the aforesaid show cause notice, the petitioner has filed reply dated 14.08.1996 before the respondent no.4 stating therein that he rendered his services continuously in the Corporation from the last 15 years and at this stage his age for any other employment had expired. The case of the petitioner may be considered on the sympathetic basis. Respondent no.4 after considering the show cause notice reply to the petitioner has issued the impugned order dated 17.12.1996 which is impugned in the present writ petition. Similarly situated persons, namely, Wasim Ahmad and Dina Nath Singh Baghel who have been appointed along with the petitioner, the Corporation has regularized their services.

5. Learned counsel for the Corporation outrightly submits that the petitioner has preferred the present writ petition after 16 years of passing the impugned order, therefore, the case may not be considered on the ground of delay and latches. He further submits that an F.I.R. was also instituted against the



petitioner under Section 30(1)(C) of the Prevention of Corruption Act and under Section 407, 409 and 420 of the Indian Penal Code.

6. 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.

7. 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.”

8. 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.

9. Considering the facts aforesaid and the fact that petitioner has not come before this Hon’ble Court with the clean hand and he has not stated anywhere in the petition about the criminal case. Apart from that the procedure had not been followed in the case of the appointment of the petitioner and petitioner has come this Hon’ble Court after about 16 years and all of sudden he has filed the present writ petition. Accordingly, this writ petition is dismissed on the ground of delay & laches.

(Rajesh Kumar Verma, J)

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