

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL REVIEW No.216 of 2022**

**In**  
**Letters Patent Appeal No.747 of 2017**

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Yugal Kishor Mishra S/o Sri Karuna Shankar Mishra R/o Village- Churhet,  
P.O. and P.S.- Sono, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Engineer in Chief, Department of Irrigation, (Water Resource Department), Government of Bihar, Patna.
2. The Presiding Officer, Labour Court, Bhagalpur.
3. The Chief Engineer, Irrigation Department, Bhagalpur.
4. The Superintending Engineer, Ganga Pump Canal Circle.

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Nikhil Kumar Agrawal, Advocate  
For the Opposite Party/s : Mr. Anjani Kumar (Aag 4)

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**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**  
**and**  
**HONOURABLE MR. JUSTICE KHATIM REZA**  
**ORAL ORDER**

(Per: HONOURABLE MR. JUSTICE KHATIM REZA)

4      22-04-2024                      Heard learned counsel for the petitioner  
and learned counsel for the opposite parties.

**Re: I.A. No. 01 of 2023**

2. This interlocutory application has been filed under Section 5 of the Limitation Act for condoning the delay of 1496 days in filing the instant Civil Review application.

3. The instant Civil Review application has



been filed against the judgment and order dated 09.10.2018 passed in L.P.A. No. 747 of 2017 whereby order dated 20.03.2017 passed in C.W. J.C. No. 12114 of 2014 by the learned Single Judge has been affirmed.

4. The learned counsel for the petitioner has submitted that after dismissal of the Letters Patent Appeal, the petitioner filed an application under R.T.I. Act, 2005 in order to procure information regarding his tenure of work with the concerned department, which was not received. Thereafter, the petitioner filed an appeal before the first appellate authority, and ultimately on 18.08.2022 the appellate authority supplied the information pertaining to the service of the petitioner. It has been revealed that the petitioner had worked for 306 days in Ganga Pump Canal Circle, Munger, as per the records available with the concerned department. After getting the said information, which was not available at the time of passing of the order, the petitioner filed the Review application on the basis of new evidence made



available to the petitioner by the concerned Department *vide* letter dated 18.08.2022 on 16.09.2022. It has been submitted that there is no deliberate delay and laches on the part of the petitioner in not filing the present Review petition within the statutory period of limitation.

5. On the other hand, the learned counsel for the opposite parties submitted that the explanation for the condonation of huge delay of 1496 days does not contain acceptable and plausible reasons.

6. From the pleadings of the limitation petition, it appears that petitioner has failed to disclose the date of filing of application for information under R.T.I. Act. The L.P.A. No. 747 of 2017 was dismissed on 09.10.2018. Any application for review of the judgment or order by a Court other than the Supreme Court, the period of limitation for filing of the review application is 30 days.

7. In a recent decision, the Hon'ble Supreme Court has laid down certain principles in



the case of ***Pathapati Subba Reddy (Died) By L.Rs. & Ors. Vs. The Special Deputy Collector (LA)*** in ***Special Leave Petition (Civil) No. 31248 of 2018*** (decided on 08.04.2024) and has held in paragraph no. 26 that while condoning the delay or refusing to condone the delay, following principles has to be considered and discussed, which reads as under:-

“**26.** On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:-

(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas



Section 5 has to be construed liberally;

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit, if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to



be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.”

8. Having considered the judgment of Hon'ble Apex Court and materials available on record of the present case, it is apparent that there is no explanation except mentioning the date of obtaining information under R.T.I. Act. There is no explanation for not applying for the information under R.T.I. Act during pendency of the Writ application / Letters Patent Appeal. It is also apparent that there was lack of bona fide effort/negligence by the petitioner, who filed the Review application after inordinate delay and much after the prescribed time and there was complete lack of due diligence by the petitioner in taking step for filing the instant Civil Review application.

9. Considering the aforesaid facts, we find that there was no proper or sufficient cause given by the petitioner for the delay except mentioning



of obtaining the information under R.T.I. Act. Therefore, petitioner has miserably failed to give any acceptable and cogent reason which may be sufficient to condone such a huge delay of 1496 days.

10. Accordingly, the limitation petition i.e., I.A. No. 01 of 2023 is dismissed having no merit in it.

11. Consequent upon dismissal of limitation petition (I.A. No. 01 of 2023), the instant Civil Review application also stands dismissed.

**(Ashutosh Kumar, J)**

**(Khatim Reza, J)**

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