

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15678 of 2023

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Birendra Prasad Mehra Son of Nawal Kishor Mehra, Resident of House No. 83, Ward No. 09, Village- Bherwa, Nawadih, Block- Madhupur, P.O.- Madhupur, P.S.- Madhupur, District- Deoghar, Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Public Health Engineering Department, Government of Bihar, Patna.
2. The Joint Secretary, Public Health Engineering Department, Government of Bihar, Patna.
3. The Regional Chief Engineer, Public Health Engineering Zone, Bhagalpur.
4. The Superintendent Engineer, Public Health Engineering Circle, Bhagalpur.
5. The Superintending Engineer, Public Health Engineering Circle, Munger.
6. The Executive Engineer, Public Health Division, Banka.
7. The Executive Engineer, Public Health Division, Jamui.
8. Sri Brij Bhushan Prasad Sinha, the then Executive Engineer, PHED Division, Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Raja Ram Rai, Adv.

For the Respondent/s : Mr.S. Raza Ahmad (AAG-5)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 02-04-2024

1. The present writ petition has been filed by the petitioner seeking to challenge the order dated 19.07.2016, passed by the Additional Secretary, Public Health Engineering Department, Government of Bihar, Patna, whereby and whereunder the petitioner has been inflicted with certain punishments.

2. Shorn of the unnecessary details, it would suffice to state that a departmental proceeding was initiated against the petitioner by issuance of memo of charges in *Prapatra* ('Ka'), vide letter dated 21.03.2012, leading to issuance of a show



cause notice to the petitioner, whereafter the petitioner had filed his explanation and then the Disciplinary Authority had initiated a departmental proceeding vide letter dated 13.09.2012. The Inquiry Officer had conducted the inquiry and submitted the Inquiry Report vide letter dated 12.03.2014, finding all the charges levelled against the petitioner to have been proved, whereafter a second show-cause notice dated 07.04.2014 was issued to the petitioner, to which the petitioner had filed his reply and then the impugned order of punishment dated 19.07.2016 has been passed. The petitioner had also filed a representation before the Additional Secretary, Public Health Engineering Department, Government of Bihar, Patna, for payment of outstanding salary, which has stood disposed of by an order dated 20.09.2016.

3. The learned counsel for the petitioner has submitted that the impugned order of punishment dated 19.07.2016 is arbitrary, illegal and has been passed in complete violation of Rule 17 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005, hence is fit to be set aside.

4. Per contra, the learned counsel for the Respondent-State has raised a preliminary objection with regard to the maintainability of the present writ petition, inasmuch as the



present writ petition has been filed belatedly, after a huge delay of more than 7 years. The learned counsel for the Respondent-State has submitted that the Hon'ble Apex Court, in a catena of judgments, has held that while exercising extraordinary and equitable jurisdiction under Article 226 of the Constitution of India, the Constitutional Court, while protecting the rights of citizens, should simultaneously keep itself alive to primary principle that when an aggrieved person, without adequate reason, approaches the Court belatedly, at his own leisure or pleasure, the writ Court is not required to grant any indulgence to such indolent person and on the ground of delay and laches alone, the writ Court ought to throw the petition overboard at the very threshold. In this regard, the Ld. counsel for the Respondents has referred to the following judgments:-

“(i). ***Chennai Metropolitan Water Supply & Sewerage Board & Others vs. T.T. Murali Babu***, reported in (2014) 4 SCC 108.

(ii). ***State of Uttranchal & Anr. vs. Shiv Charan Singh Bhandari & Ors.***, reported in 2013 AIR SCW 6627.

(iii). ***C. Jacob vs. Director of Geology & Mining & Anr.***, reported in AIR 2009 SC 264.

(iv). ***State of Jammu & Kashmir vs. R.K. Zalpuri & Others***, reported in AIR 2016 SC 3006.



(v). *State of Tamil Nadu vs. Seshachalam*, reported in (2007) 10 SCC 137.

5. Having heard the Ld. counsel for the parties and having gone through the materials on record, this Court finds that the present writ petition is fit to be dismissed on the ground of delay and laches alone, inasmuch as the petitioner has approached this Court belatedly after a lapse of more than 7 years. In fact, in a judgment, rendered by the Hon'ble Apex Court in the case of *P. S. Sadasivaswamy vs. State of Tamil Nadu*, reported in (1975) 1 SCC 152, the Hon'ble Apex Court has held that in a service matter/promotion matter, an aggrieved person should approach the Court at least within six months or at the most a year of the arising of a cause of action and it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 of the Constitution of India, in the case of persons who do not approach it expeditiously for relief and such petitions should be dismissed in limine, inasmuch as entertaining such petitions is a waste of time of the Court, the same clogs the work of the Court and impedes the work of the Court in considering legitimate grievances. In yet another judgment, rendered by the Hon'ble Apex Court in the case of *Naresh Kumar vs. Department of*



Atomic Energy & Others, reported in (2010) 7 SCC 525, the Hon'ble Apex Court has held that the High Court was not in error while dismissing the writ petition on the ground of unexplained delay and laches of about 8 years.

6. At this juncture, it would be gainful to reproduce paragraphs No. 1, 16, 17 and 34 of the Judgment rendered by the Hon'ble Apex Court in the case of **Chennai Metropolitan Water Supply & Sewerage Board** (supra), herein below:-

“1. The present appeal, by special leave, is directed against the judgment and order dated 22-11-2012 passed by the High Court of Judicature of Madras in Chennai Metropolitan Water Supply & Sewerage Board v. T.T. Murali Babu whereby the Division Bench has affirmed the judgment and order dated 21-7-2011 in WP No. 25673 of 2007 whereunder the learned Single Judge had allowed the writ petition, and after setting aside the punishment of dismissal, directed reinstatement of the respondent with continuity of service but without back wages.

16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep



itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant — a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.

17. In the case at hand, though there has been four years' delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinise whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may



have impact on others' ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons — who compete with “Kumbhakarna” or for that matter “Rip Van Winkle”. In our considered opinion, such delay does not deserve any indulgence & on the said ground alone the writ court should have thrown the petition overboard at the very threshold.

34. Judged on the anvil of the aforesaid premises, the irresistible conclusion is that the interference by the High Court with the punishment is totally unwarranted and unsustainable, and further the High Court was wholly unjustified in entertaining the writ petition after a lapse of four years. The result of aforesaid analysis would entail overturning the judgments and orders passed by the learned Single Judge and the Division Bench of the High Court and, accordingly, we so do.”

7. Considering the facts and circumstances of the case and for the reasons mentioned hereinabove in the preceding paragraphs, this Court finds that the present writ petition is fit to be dismissed on the ground of delay and laches alone inasmuch as the petitioner has approached this Court belatedly after an unexplained delay of more than 7 years, especially in view of the principles of law laid down by the Hon’ble Apex Court in a catena of judgments, as referred to by the Ld. counsel for the



Respondent-State and recorded herein above in the preceding paragraphs, as also considering the maxim-“equity aids the vigilant and not those who slumber on their rights”. Thus, this Court is of the view that since the petitioner has not filed the writ petition within a reasonable period of time, this Court is not under any legal obligation to entertain the writ petition, especially considering the fact that the petitioner has not offered any reason whatsoever, for the enormous delay which has taken place in approaching this Court, hence, the present writ petition is dismissed on the ground of delay and laches.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.05.2024
Transmission Date	NA

