

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1164 of 2019

In
Civil Writ Jurisdiction Case No.2400 of 2014

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Anandi Prasad Yadav, S/o Late Jagdish Prasad Yadav, R/O Mohalla - Choti
Kelabari, P.O. - Monghyr, P.S. - Kotwali, District – Monghyr.

... .. Appellant/s

Versus

1. The State of Bihar through the Secretary, Public Health Engineering Department, Govt. of Bihar, Patna
2. Chief Engineer (Mechanical) Public Health Engineering Department, Govt. of Bihar, Patna
3. Superintending Engineer Public Health Engineering Circle, Bhagalpur
4. Executive Engineer Public Health (Mechanical) Division, Monghyr

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Baidya Nath Thakur, Advocate
For the Respondent/s : Mr.S. Raza Ahmad, AAG-5

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 01-02-2024

The present L.P.A. is filed in assailing the order dated 20th June, 2014 passed in C.W.J.C. No. 2400 of 2014 in the year 2019, there is a delay of about 05 years 54 days. The reasons assigned for condonation of delay is that petitioner had invoked remedy of restoration or recalling the order dated 20.06.2014 passed in C.W.J.C. No. 2400 of 2014 in filing



M.J.C. No. 3195 of 2014 and it was dismissed on 08.07.2015. Thereafter, C.W.J.C. No. 4630 of 2016 was filed and it is a fresh writ petition. In fact, filing of such petition amounts to res judicata. The appellant had remedy of invoking jurisdiction of L.P.A. Bench insofar as assailing the orders dated 20th June, 2014 and 08.07.2015 passed in C.W.J.C. No. 2400 of 2014 and M.J.C. No. 3195 of 2014. On the other hand, he has filed C.W.J.C. No. 4630 of 2016 and it amounts to res judicata.

2. Merely observation of liberty to file L.P.A. in C.W.J.C. No. 4630 of 2016, one cannot condone the delay of about 05 years and 54 days. Be that as it may question for consideration on merit, it is to be noticed that petitioner is seeking alteration of date of regularization on par with similarly situated persons, who were stated to have been regularized prior to the date on which appellant was given his regularization in the year 2006. It is to be noted that petitioner had cause of action in the year 1993 with reference to similarly situated persons, who were stated to have been regularized and he did not agitate. Further, as and when his services were regularized in the year 2006, he was aware of the fact that there was a discrimination and despite that he has approached this Court for the first time in the year 2014 after lapsed of about 08 years.



3. Taking note of the conduct of the petitioner, even on merit, appellant has not made out a case.

4. Accordingly, I.A No. 01 of 2023 stands rejected consequently L.P.A. stands dismissed.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

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AFR/NAFR	N.A.F.R
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