

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 17575 of 2024

Manish Kumar Son of Ratan Lal Gupta, resident of Village-Banuaa, P.O.-
Turki Kharara, P.S.-Minapur, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary General Administration Department.
2. Patna High Court, Patna through the Registrar General.
3. The Convenor, Coordination Committee, Patna-cum-District and Session Judge, Patna.
4. Shankar Kumar Gupta, Son of Birchandra Prasad Gupta, resident of Sharifganj, P.O.-Daheria Mill, P.S.-Katihar, District-Katihar.
5. Anup Kumar Trilok, son of Raj Kishore Thakur, resident of Chainpur, P.O.-Chainpur, P.S.-Bargaon, District-Saharsa.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Raju Kumar, Advocate
For the Respondent/s : Mr.Piyush Lall, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 25-11-2024

Heard Mr. Raju Kumar, learned counsel appearing
on behalf of the petitioner and Mr. Piyush Lall, learned counsel
for the respondents/State.

2. The petitioner in paragraph no. 1 of the present
writ petition has sought inter alia following relief(s), which is
reproduced hereinafter:-

“(i) To issue an appropriate order/s, direction/s including a writ preferably in the nature of mandamus commanding and directing upon the respondent no.3 (hereinafter referred to as convener co-ordination committee, Patna cum District and Sessions Judge, Patna) to appoint the petitioner to the post of clerk in the Civil



Works of Bihar pursuant to employment notice number-1/2016 taking account that private respondents who have lesser marks than that of petitioner and has been declare successful in the selection process.

(ii) To quash the select list dated 25.09.2023 publish for selection of 20 post of clerks who have been finally selected pursuant to employment notice no.1/2016 published from the office of convener centralized selection and appointment committee cum District & Sessions Judge, Patna.

(iii) To any other relief/s to which the petitioner may be found entitled in the facts and circumstances of the case.”

Facts:-

3. The facts of the case are that by an Employment Notice No.1/2016, the office of the Convenor, Co-ordination Committee, Patna-cum-District & Sessions Judge, Patna invited online applications for filling up of 168 posts in Grade III (Clerk), as per the reservation roster. In the selection list published for selection of the Clerks, the petitioner being a candidate of Backward Caste category his name was also appeared in the panel, having secured total 72.20 marks, but the petitioner was not selected for the post, rather the candidates who have secured lesser marks in the merit list was appointed in an arbitrary manner.

Submission on behalf of the parties: -

4. Learned counsel appearing on behalf of the



petitioner submitted that the petitioner has secured higher marks (72.20) than respondent nos. 4 and 5. In spite of that, respondent nos. 4 and 5 were selected and appointed but the petitioner was not appointed.

5. Learned counsel appearing on behalf of the petitioner in this regard has relied upon the judgment dated 19.04.2023 passed in LPA No.650 of 2022 and referring to paragraph nos. 20, 21 and 22, he claims equity with those candidates, who had approached the writ court in the year, 2018 and 2019.

6. Mr. Piyush Lall, learned counsel appearing on behalf of Patna High Court has submitted that the Advertisement is of the year, 2016 and the merit list was published on 26.09.2018 and thereafter being aggrieved by non-selection, some of the candidates preferred CWJC No.21219 of 2018, CWJC No.6259 of 2019 and CWJC No.1414 of 2019. The relief(s) sought by those candidates were not entertained by the learned Single Judge and thereafter, they preferred Letters Patent Appeal, which were allowed.

7. Learned counsel further submitted the writ jurisdiction is not for indolent and in this regard, he has referred the law laid down by the Apex Court in the case of State of U.P.



& Ors. vs. Harish Chandra and Ors. reported in (1996) 9 SCC 309.

8. At this stage, this Court inquired from Mr. Piyush Lall, learned counsel for the Patna High Court as to whether the posts are still vacant, upon which, he had informed this Court that the validity of the panel was for only two years and the petitioner can not claim equity with those candidates who were vigilant and has immediately rushed this Court.

9. Learned counsel further submitted that as the panel has already expired and now filing belated representation before the learned Registrar General of Patna High Court, will not claim for equity in any manner with those candidates who had approached this Court. Learned counsel further made it clear that the judgment passed in LPA No.650 of 2022 can be considered to have been passed in persona and not in rem and in this regard, he refers to observation made in Paragraph No.20, which is re-produced inter alia hereinafter, as follows : -

“20. Accordingly, the order of the learned Single dated 29.09.2022 passed in CWJC No.6259 of 2019 and connected matters stands set aside. While allowing LPA No.650 of 2022 (arising out of CWJC no.6259 of 2019), LPA No.657 of 2022 (arising out of CWJC No.21219 of 2018), & LPA No.661 of 2022 (arising out of CWJC No.21219 of 2018) the concerned selecting/appointing authority is hereby directed to consider each of the petitioners name for the purpose of



appointment tot the post of Clerk against unfilled vacancies and anticipated vacancies during the relevant period of two years and necessary order of appointment shall be issued to each of the eligible petitioner within a period of three months from the date of receipt of this order. If any, of the candidate is not suitable or eligible in that event necessary speaking order shall be passed and communicated to such petitioner/s.”

10. Mr. Piyush Lall, learned counsel further submitted that the law is well settled in respect of those persons, who approached this Court much earlier are not entitled for similar relief having remained fence sitter. The claim of equity is nonest in the eye of law.

Analysis and Conclusion: -

11. Heard the parties.

12. Before I proceed to decide the writ petition on merit, preliminary question arises - whether the writ petitioner, who was waiting on the fence from the year, 2018, has filed writ petition after six years of publication of the select list, can it be entertained? It is well settled law laid down by the Apex Court that if it is found that the writ petitioner is guilty of delay and laches, the High Court should dismiss it at the threshold. Close to the facts of this case, the Apex Court in the case of **State of U.P. & Ors.** (supra), relied by Mr. Piyush Lall, learned counsel appearing for the respondents, and similarly a Co-ordinate



Bench of this Court in CWJC no.10450 of 2024 has relied on the judgment of the Apex Court in the case of **Ex. Capt. Harish Uppal v. Union of India** reported in **1994 SCC Supl. (2) 195**.

The Hon'ble Apex Court has held as under :

“8. The petitioner sought to contend that because of laches on his part, no third party rights have intervened and that by granting relief to the petitioner no other person's rights are going to be affected. He also cited certain decisions to that effect. This plea ignores the fact that the said consideration is only one of the considerations which the court will take into account while determining whether a writ petition suffers from laches. It is not the only consideration. It is a well-settled policy of law that the parties should pursue their rights and remedies promptly and not sleep over their rights. That is the whole policy behind the Limitation Act and other rules of limitation. If they choose to sleep over their rights and remedies for an inordinately long time, the court may well choose to decline to interfere in its discretionary jurisdiction under Article 226 of the Constitution of India and that is what precisely the Delhi High Court has done. We cannot say that the High Court was not entitled to say so in its discretion.”

13. The Apex Court in **“C. Jacob Versus Director of Geology and Mining and Others”** reported in **(2008) 10 SCC 115**, having found that the employee suddenly brought up a challenge to the order of termination of his services after 20 years and claimed all consequential benefits, held that the relief sought for was inadmissible. The legal position in this regard was laid out in the following terms:-



“10. Every representation to the government for relief, may not be replied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim. In regard to representations unrelated to the department, the reply may be only to inform that the matter did not concern the department or to inform the appropriate department. Representations with incomplete particulars may be replied by seeking relevant particulars. The replies to such representations, cannot furnish a fresh cause of action or revive a stale or dead claim.

11. When a direction is issued by a court/tribunal to consider or deal with the representation, usually the directee (person directed) examines the matter on merits, being under the impression that failure to do may amount to disobedience. When an order is passed considering and rejecting the claim or representation, in compliance with direction of the court or tribunal, such an order does not revive the stale claim, nor amount to some kind of 'acknowledgment of a jural relationship' to give rise to a fresh cause of action.”

14. Reiterating the aspect of delay and laches would dis-entitle the discretionary relief being granted, the Apex Court in the case of **Chennai Metropolitan Water Supply & Sewerage board V. T.T. Murali Babu**, reported in **(2014) 4 SCC 108** has held in paragraph no.16 which is reproduced hereinafter :-

“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 scrutinize 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”

15. Having considered the rival submissions made on behalf of the parties and having perused the judgment dated 18.01.2024 passed in LPA No.727 of 2023 (arising out of CWJC No.1414 of 2019), I find that the advertisement is of the year, 2016, the result was published in the year, 2018 and thereafter few rounds of litigation were filed and finally, this Court has granted relief to those candidates, who had approached this Court in CWJC no.6259 of 2019 and CWJC No.21219 of 2018 making it clear in **Paragraph no.20** of judgment dated 19.04.2023 passed in **LPA No.650 of 2022**



(supra).

16. The above judgment has been passed in respect of those who had approached this Court much earlier and the petitioner can only be held he was not conscious of his right and remained indolent, which don't entitle them to claim the equity with those candidates who have been granted relief.

17. I do not find merit in the present writ petition, accordingly, the same is dismissed.

(Purnendu Singh, J)

chn/-

AFR/NAFR	AFR
CAV DATE	NA
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Transmission Date	NA

