

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.114 of 2024

1. Abhisek Kumar Son of Binod Prasad Singh, resident of Village and P.O. - Dharampur, P.S. Noorsarai, District - Nalanda (Biharsharif).
2. Bimal Kumar, Son of Ram Narayan Prasad, resident of Village and P.O. - Nehalpur, P.S. Parasbigha, District - Jehanabad.
3. Raj Kumar, Son of Arbind Prasad, resident of village- Choti Gomahar, P.O. Jagat, P.S. - Noorsarai, District - Nalanda.

... .. Petitioner/s

Versus

1. The E.S.I.C. through The Director General, Employees State Insurance Corporation, Panchdeep Bhawan, CIG Road, New Delhi- 110002.
2. The Joint Director (Recruitment), Employees State Insurance Corporation, Panchdeep Bhawan, CIG Road, New Delhi- 110002.
3. The Additional Commissioner and the Regional Director, Employees State Insurance Corporation, Regional Office, Panchdeep Bhawan, Ashram Road, Ahmedabad (Gujrat)- 380014.
4. The Regional Director, Employees State Insurance Corporation Regional Office, Panchdeep Bhawan, Ashram Road, Ahmedabad (Gujrat)- 380014.
5. The Deputy Director, Employees State Insurance Corporation, Regional Office, Panchdeep Bhawan, Ashram Road, Ahmedabad (Gujrat)- 380014.
6. The Joint Director I/C, Employees State Insurance Corporation, Sub -Regional Office, ESI Hospital Campus, Civil Char Rasta, Surat- 395001.
7. Om Prakash Kumar, S/o Sri Satish Kumar Singh, R/o village-Chainpur, P.O.-Jaitpur, P.S. Chandi, District-Nalanda (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar, ESIC
Mr. Ravi Kumar
For the Respondent/s : Mr.Sudhir Kumar Bijpuria

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)
Date : 09-04-2024

In the instant petition, petitioner has prayed for the
following relief(s):-

(i) For issuance of an appropriate



writ/s, order/s, Direction/s for quashing order dated 09.09.2019 passed by Division Bench consisting of Hon'ble Sri J.V. Bhairavia Member [J] and Hon'ble Shri Dinesh Sharma, Member [A] of Central Administrative Tribunal Patna Bench, Patna in O.A. No. 050/00102/2017 whereby and whereunder the original application filed by the petitioners have been dismissed being devoid of merit which was filed for quashing termination order dated 28/29.10.2014 which has been issued without any regular departmental proceeding;

(ii) For issuance of an appropriate writ/s, order/s, Direction/s for quashing order dated 28/29.10.2014 whereby and under the petitioner's service have been terminated contrary to the provisions of law and without holding any regular departmental inquiry under Rule 14 of CCS (CCA) Rules 1965 which was mandatorily required since the petitioners were appointed after due process of law and have completed more than six years of service satisfactorily.

(iii) For issuance of an appropriate writ/s, order/s, Direction/s to reinstate the petitioners in service forthwith with all consequential benefits including arrears of pay from the date of termination from service up to the date of reinstatement in service after setting aside the order dated 28/29.10.2014.

(iv) To pass such other order/orders



as your Lordships may deem fit and proper in the facts and circumstances of this case.

2. Identical matter viz., CWJC No.456 of 2024, we have dismissed on the ground of delay and laches on the part of the petitioner. However, learned counsel for the petitioner submitted that he has filed supplementary affidavit on behalf of the petitioner on 01.04.2024 and the same is not on record. We have perused the copy of the supplementary affidavit from the petitioner's counsel. To overcome the delay and laches in the affidavit he has taken the contention that COVID-19 period was required to be excluded for the purpose of delay and laches in this regard he has cited SLP No. 3 of 2020. Even assuming that COVID-19 period from 20th March, 2020 to 20th March, 2022 is excluded still the petitioner has not apprised the explanation from April, 2022 to till filing of the present writ petition in the month of March 2024 that means two years he slept over the matter on this issue learned counsel for the petitioner relying on para 5 of the supplementary affidavit. Para 5 of the supplementary affidavit dated 01.04.2024 reads as under:

"That it is further stated that thereafter the petitioner approached the advocate, the petition was drafted and it was presented in the Hon'ble Court in the year 2023 and there is no excessive delay in filing the application as has been raised by respondent in case of Bikas Kumar Vs. ESIC and others. The respondent/Corporation raised objection



in that case that the petition was filed at a belated stage after a gap of about four years but if period of Covid 19 would be mitigated, there is no excessive delay in filing writ petition."

3. Reading of para 5 of supplementary affidavit sufficient cause has not been shown for the last two years i.e., prior to filing of the present writ petition. Accordingly, the present petition stands dismissed on the ground of delay and laches.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

vashudha/-
Krishna Kant

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.02.2024
Transmission Date	NA

