

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18715 of 2024

Shyamal Mishra, Son of Late Ram Gopal Mishra, Resident of D54/70C-A-P, Jaddumandi, Luxa, Behind Ashiyana Apartment, Chhitupur, Varanasi, P.S. Luxa, district- Varanasi. At presently posted as Assistant, District Record Room, Bhabua, District- Kaimur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principle Secretary, Home Department, Bihar, Patna.
2. The Divisional Commissioner, Patna Division, Patna.
3. The District Magistrate, Kaimur at Bhabua.
4. The Sub Divisional Magistrate, Mohania, District - Kaimur.
5. The Deputy Collector Land Reforms, Bhabua, District - Kaimur at Bhabua.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Garg, Advocate
For the Respondent/s : Mr. Manoj Kumar, AC to GP-4

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 09-12-2024 Heard Mr. Ashok Kumar Garg, learned Advocate for the petitioner and Mr. Manoj Kumar, learned Advocate for the State.

2. The petitioner is aggrieved with the order dated 11.06.2024 passed by the respondent no. 2 in Service Appeal No. 113 of 2024 whereby the Learned Divisional Commissioner, Patna has dismissed the Service Appeal filed by the petitioner and affirmed the order No. 36/1999-2000 passed under memo No. 614 dated 27.12.1999 whereby and whereunder the learned District Magistrate has ordered for reduction to a lower stage in the time scale of pay and also



directed for not making payment during the period from 15.07.1997 to 24.11.1999 and record the censure in the service book of the petitioner.

3. Learned Advocate for the petitioner submitted that the order dated 27.12.1999 was apart from illegal, the same is in complete violation of the principles of natural justice and the petitioner has not been accorded any opportunity of hearing. Various other infirmities have been pointed out while assailing the illegality of the order afore-noted.

4. It is further contended that despite the fact that the impugned order was *void ab initio*, the learned Divisional Commissioner, Patna has not entertained the appeal on merit and dismissed the same on account of limitation.

5. Learned Advocate for the State vehemently opposed the contention of the learned Advocate for the petitioner and submitted that the impugned order of punishment was passed way back in the year 1999 and the appeal was preferred before the Divisional Commissioner after a delay of almost 24 years and, as such, there is no illegality in the order rejecting the appeal in terms of the time limit as provided in Rule 25 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005.



6. Having heard the learned Advocate for the respective parties and considering the fact that the impugned order of punishment was passed way back in the year 1999 and the appeal has been preferred after a delay of 24 years, the same is apparently hit by delay and laches. Well settled it is that a belated service related claim will be rejected on the ground of delay and laches.

7. “It is settled rule of law that whenever provision of statute does not provide for specific time, the same has to be done within a reasonable time. Again a reasonable time can not have a fixed connotation. It must depend upon the facts and circumstances of a given case”. [vide *Ramlila Maidan vs. Home Secretary, Union of India, (2012) 5 SCC 1*]. However in the case in hand the period of limitation has been duly prescribed under Rule 25 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 that no appeal shall be entertained unless such appeal is preferred within 45 days from the date of the order appealed, unless the appellant satisfied that he had sufficient cause for not preferring the appeal.

8. No cogent reason or any explanation has been put forth by the petitioner in causing delay to approach before the



Divisional Commission after two decades; in view thereof no case is made out for interference in the impugned order; the present writ petition stands dismissed.

(Harish Kumar, J)

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