

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.513 of 2022

In
Civil Writ Jurisdiction Case No.787 of 2020

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Shambhu Sharan Pal Son of Late Kushweshwar Pal, Resident of Village-
Dudhpura, P.S.- Samastipur (Mufassil), District- Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department,
Government of Bihar, Patna.
2. The Principal Secretary, Health Department, Government of Bihar, Patna.
3. The District Magistrate, Samastipur.
4. The Civil Surgeon-cum-Chief Medical Officer, Samastipur

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Nazir Ansari, Advocate.
For the Respondent/s : Mr. S.D. Yadav, AAG-9.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 23-01-2025

1. Appellant has assailed the order of Learned
Single Judge dated 04.07.2022 passed in C.W.J.C. No.787 of
2020.

2. Grievance of the appellant is that his services
have been terminated on the alleged score that he had furnished
forge documents. In this regard he had approached this Court by
filing C.W.J.C. No.2459 of 2007 which was disposed of on
24.08.2011 with certain observation and direction. It reads as
under :-



“It is made clear that as the impugned order has been set aside only on the ground of principles of natural justice and the matter is to be re-enquired in the manner indicated above, the petitioner will not stand reinstated in service till a final decision is taken by the Civil Surgeon nor the petitioner will be entitled to any financial benefit till he is fully exonerated by the Civil Surgeon. At the same time it is also clarified that since the proceeding in question has been initiated prior to filing of the criminal case against the petitioner the same will not be now clubbed with the fate of the pending criminal case and a final order as indicated above will be communicated to the petitioner within a period of six months from the date of receipt/ production of a copy of this order.

With the aforementioned observation and direction, this application is disposed of.”

3. Thereafter appellant had submitted representation on 08.12.2011 along with the copy of order dated 24.08.2011 passed in C.W.J.C. No.2459 of 2007. There is inaction on the part of respondent either complying the orders of this Court dated 24.08.2011 read with appellant's representation dated 08.12.2011 or rejecting his claim. In such circumstances appellant has statutory remedy of filing Contempt of Court petition and it has not been availed by him. On the other hand, he has opened his eyes after lapse of about 9 years and proceeded to file C.W.J.C. No.787 of 2020. To redress the grievance of the appellant he had a cause of action on 08.12.2011, the date on which he had submitted representation



along with the copy of judgment dated 24.08.2011 passed in C.W.J.C. No.2459 of 2007. Reasonable period would have been three years. On the other hand, he has approached this Court in filing fresh writ petition i.e. C.W.J.C. No.787 of 2020. There is delay and laches on the part of appellant insofar as invoking writ jurisdiction for the second time for about nine years. Hon'ble Supreme Court in the case of **State of Jammu and Kashmir vs. R.K. Zalpuri & Ors.** reported in **AIR 2016 Supreme Court 3006** in para 20, has held as under:-

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation vs. Dosu Aardeshir Bhiwandiwalla and Others, wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus:- “The Court while exercising its jurisdiction under Article 226 is duty bound to consider whether:

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily re-solved;

(b) the petition reveals all material facts;

(c) the petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by any valid law and host of other factors.”

(underline supplied)



4. Taking note of the principle laid down in the
aforementioned decision, there is no infirmity in the order of
Learned Single Judge dated 04.07.2022 passed in C.W.J.C.
No.787 of 2020. Accordingly, the present Letters Patent Appeal
stands dismissed.

5. Pending I.A.(s), if any, stands disposed of.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

Harish/-ritik/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.01.2025
Transmission Date	NA

