

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4670 of 2026

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Manikant Jha Son of Dasrath Jha, Resident of Village- Kehra, PO- Kehra
(Madanpur), District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through Principle Secretary Department of General and Administrative Department Patna, Government of Bihar G.D.A General Administrative Department Old Secretariate Building Beerchand Patel Path Patna-800001.
2. The Principle Secretary, Water Resources Department, Patna, Govt. of Bihar.
3. The Principle Secretary, Department of Finance, Patna, Govt. of Bihar.
4. The Deputy Secretary, Department of Irrigation, Patna, Govt. of Bihar.
5. The Engineer in Chief, Department of Irrigation, Flood Control and Dam Management Patna Secretariat Patna Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Majid Mahboob Khan, Advocate
For the Respondent/s : Mr. Standing Counsel (18)

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT

Date : 31-03-2026

Heard the parties.

2. The present writ petition has been filed for the following reliefs:-

“(a). For issuance of writ in nature of mandamus commanding the respondent for reckoning the pass service of the petitioner as daily wager prior to regularization of his service for all the practical purposes.

(b). For issuance of a writ in the nature of



mandamus directing the respondent to pay post retired benefits and pay Pension as per old pension scheme for which Petitioner is entitled as per facts of the Case.”

3. The brief facts giving rise to the present writ petition are that the petitioner was engaged in the Irrigation Department vide department order no. 22/a1-215/84-317 Patna dated 29.10.1984 as a Peon against the sanctioned and vacant post and was deputed in the head office as daily wager for 90 days. Thereafter vide office order no. 22/a1-215/84 Patna dated 30.01.1985, his service was extended for further 90 days and was again extended vide office order no. 22/a1-215/84/98 Patna dated 29.04.1985. Vide Resolution No. 5940 dated 18.06.1993, the Department of Personnel and Administrative Reforms, Government of Bihar Patna had taken a policy decision to absorb/regularise the services of all the daily wagers, who had been appointed and had completed 240 day's service prior to 01.08.1985. Since the petitioner was within the zone of consideration for regularisation, in view of the policy decision of the State dated 18.06.1993, the then Commissioner-Cum-Secretary, Water Resources Department, Government of Bihar



vide his letter no. 04/stb-2-1039/91/3038 dated 03.08.1994 recommended the case of the petitioner and other similarly situated employees for regularization, to the Personnel and Administrative Reforms Department, Government of Bihar, Patna, but no action was taken. Subsequently, vide letter no. 133 dated 08.01.2004 issued under the signature of the Joint Secretary to the Government, Department of Finance, Government of Bihar, Patna addressed to the Secretary, General Administration Department, Government of Bihar, Patna a request was made to consider the cases of the Class-IV employees, appointed prior to 01.08.1985, in view of the demand put forward by the Class IV Employees Mahasangh. Finally, the services of the petitioner was regularised along with some others vide Memo No. 1060 dated 07.03.2007 issued under the signature of the Under Secretary to the Government, Water Resources Department, Government of Bihar, Patna. In the letter, it was categorically mentioned that in cases of the employees concerned, the new pension scheme effective from 01.09.2005 will be applicable. The petitioner superannuated from service on 01.11.2016.

4. The learned counsel for the petitioner submits that the authorities concerned, while regularising the services of



the petitioner w.e.f 07.03.2007 did not take into consideration the work earlier rendered by the petitioner on daily wages w.e.f. 29.10.1984. Thereby, by denying the benefit of past services rendered by the petitioner as a daily wage employee, he has been discriminated with by not granting pension, which would have been given to the petitioner, in case his past services would have been reckoned.

5. The learned counsel for the petitioner refers to and relies on a judgment of the Hon'ble Supreme Court of India reported in **2016 (13) SCC 797 (*Asger Ibrahim Amin versus Life Insurance Corporation of India*)**, wherein in paragraph nos. 19 & 21 the Hon'ble Supreme Court of India has held as follows:-

“19. The legal position deducible from the above observations further amplifies that the so-called resignation tendered by the appellant was after satisfactorily serving the period of 20 years ordinarily qualifying or enabling voluntary retirement. Furthermore, while there was no compulsion to do so, a waiver of the three months' notice period was granted by the respondent Corporation. The State being a model employer should construe the provisions of a beneficial legislation in a way that extends the benefit to its employees, instead of curtailing it.

21. We thus hold that the termination of services



of the appellant, in essence, was voluntary retirement within the ambit of Rule 31 of the 1995 Pension Rules. The appellant is entitled for pension, provided he fulfils the condition of refunding of the entire amount of the Corporation's contribution to the provident fund along with interest accrued thereon as provided in the 1995 Pension Rules. Considering the huge delay, not explained by proper reasons, on the part of the appellant in approaching the Court, we limit the benefits of arrears of pension payable to the appellant to three years preceding the date of the petition filed before the High Court. These arrears of pension should be paid to the appellant in one instalment within four weeks from the date of refund of the entire amount payable by the appellant in accordance with the 1995 Pension Rules. In the alternative, the appellant may opt to get the amount of refund adjusted against the arrears of pension. In the latter case, if the amount of arrear is more than the amount of refund required, then the remaining amount shall be paid within two weeks from the date of such request made by the appellant. However, if the amount of arrears is less than the amount of refund required, then the pension shall be payable on monthly basis after the date on which the amount of refund is entirely adjusted.”

6. The learned counsel for the petitioner further refers to and relies on a judgment of the Hon’ble Calcutta High



Court reported in **2024 (SCC) Online CAL 11161, (CSTC Retires' and Pensioners' Association and Another versus State of West Bengal and Others)**, wherein in paragraph nos. 38 & 41 it has been held as follows:-

“38. Similarly, in the case of N. Murugesan (supra), the Hon'ble Supreme Court observed that,

“25. Acquiescence would mean a tacit or passive acceptance. It is implied and reluctant consent to an act. In other words, such an action would qualify a passive assent. Thus, when acquiescence takes place, it presupposes knowledge against a particular act. From the knowledge comes passive acceptance, therefore instead of taking any action against any alleged refusal to perform the original contract, despite adequate knowledge of its terms, and instead being allowed to continue by consciously ignoring it and thereafter proceeding further, acquiescence does take place. As a consequence, it reintroduces a new implied agreement between the parties. Once such a situation arises, it is not open to the party that acquiesced itself to insist upon the compliance of the original terms. Hence, what is essential, is the conduct of the parties. We only dealt with the distinction involving a mere acquiescence. When acquiescence is followed by delay, it may become laches. Here again, we are



inclined to hold that the concept of acquiescence is to be seen on a case-to-case basis.”

41. The writ petitioners shall be entitled to apply for the benefits of DCRB Regulations within eight weeks from date. If applied, the respondent authorities shall decide such claim within four weeks from the date of such application and communicate its decision to the applicant forthwith.”

7. Per contra, the learned counsel appearing on behalf of the State submits that the services of the petitioner was regularized vide memo no. 1060 dated 07.03.2007 and in the said regularization letter, it was clearly mentioned that the petitioner and others will be entitled for new pension scheme. The petitioner readily accepted the said job and even retired on 01.11.2016 and accepted the post retirement benefits, which were paid to him. During the entire service period or even after his retirement, the petitioner did not made any representation or raised any claim before the authorities concerned for the relief sought for in the present writ petition and all of a sudden woke up from slumber and filed a representation on 29.07.2024 for grant of the benefit of past service to him.

8. The learned counsel for the State submits that the claim of the petitioner is hopelessly time barred and is fit to be



dismissed on the ground of delay and laches. The petitioner has waived his right, by not raising any claim during his service period or for 10 years after his retirement.

9. After hearing the rival submissions and after going through the records, this Court finds that the services of the petitioner was regularized vide memo no. 1060 dated 07.03.2007, along with others and he superannuated from service on 01.11.2016, but never raised any claim before any of the authorities with regard to counting his past services. The petitioner, for the first time, filed a representation on 29.07.2024, wherein he requested the authorities concerned to consider the claim, which he has submitted in the representation. The petitioner was satisfied with whatever was given to him and did not raise any objection even after 8 years of retirement. The law with regard to waiver and acquiescence is very much settled.

10. The Hon'ble Supreme Court of India in a judgment reported in **2022 (2) SCC 25 (Union of India versus N. Murugesan)** in paragraph nos. 20 to 25 and 28 has held as follows:-

“20. The principles governing delay, laches, and acquiescence are overlapping and interconnected on many occasions. However, they have their distinct characters and distinct



elements. One can say that delay is the genus to which laches and acquiescence are species. Similarly, laches might be called a genus to a species by name acquiescence. However, there may be a case where acquiescence is involved, but not laches. These principles are common law principles, and perhaps one could identify that these principles find place in various statutes which restrict the period of limitation and create non-consideration of condonation in certain circumstances. They are bound to be applied by way of practice requiring prudence of the court than of a strict application of law. The underlying principle governing these concepts would be one of estoppel. The question of prejudice is also an important issue to be taken note of by the court.

- 21. The word “laches” is derived from the French language meaning “remissness and slackness”. It thus involves unreasonable delay or negligence in pursuing a claim involving an equitable relief while causing prejudice to the other party. It is neglect on the part of a party to do an act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.*
- 22. Two essential factors to be seen are the length of the delay and the nature of acts done during the interval. As stated, it would also involve acquiescence on the part of the party approaching the court apart from the change*



in position in the interregnum. Therefore, it would be unjustifiable for a Court of Equity to confer a remedy on a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy.

23. A defence of laches can only be allowed when there is no statutory bar. The question as to whether there exists a clear case of laches on the part of a person seeking a remedy is one of fact and so also that of prejudice. The said principle may not have any application when the existence of fraud is pleaded and proved by the other side. To determine the difference between the concept of laches and acquiescence is that, in a case involving mere laches, the principle of estoppel would apply to all the defences that are available to a party. Therefore, a defendant can succeed on the various grounds raised by the plaintiff, while an issue concerned alone would be amenable to acquiescence.

24. We have already discussed the relationship between acquiescence on the one hand and delay and laches on the other.

25. Acquiescence would mean a tacit or passive acceptance. It is implied and reluctant consent to an act. In other words, such an action would qualify a passive assent. Thus, when



acquiescence takes place, it presupposes knowledge against a particular act. From the knowledge comes passive acceptance, therefore instead of taking any action against any alleged refusal to perform the original contract, despite adequate knowledge of its terms, and instead being allowed to continue by consciously ignoring it and thereafter proceeding further; acquiescence does take place. As a consequence, it reintroduces a new implied agreement between the parties. Once such a situation arises, it is not open to the party that acquiesced itself to insist upon the compliance of the original terms. Hence, what is essential, is the conduct of the parties. We only dealt with the distinction involving a mere acquiescence. When acquiescence is followed by delay, it may become laches. Here again, we are inclined to hold that the concept of acquiescence is to be seen on a case-to-case basis.

28. *We would not dwell deep into the extraordinary and discretionary nature of relief under Article 226 of the Constitution of India. This principle is to be extended much more when an element of undue delay, laches and acquiescence is involved. The following decisions of this Court would suffice:”*

11. Similarly, in a recent judgment the Hon’ble Supreme Court of India in ***Civil Appeal No. 6664 of 2023 (Bichitrananda Behera Versus State of Orissa and Others)*** in paragraph no.20 has held as follows:-



“26. On an overall circumspection, thus, in the present case Respondent 5 should have been non-suited on the ground of delay and laches, which especially in service matters, has been held consistently to be vital, juxtaposed with the sign of acquiescence. To the mix, we add that the State has supported the factual circumstances concerning the appointment of the appellant, his continuance in service as also Respondent 5 having worked during the said period in another school viz. Sri Thakur Nigamananda High School, Terundia. Notably, Respondent 5 does not, from the record before us, appear to have approached the authorities in the interregnum.”

On the basis of the above and after considering the different pronouncement of the Hon’ble Supreme Court of India on delay and laches, waiver and acquiescence, including the judgment in the case of ***Union of India versus N. Murugesan (supra)*** proceeded to allow the claim of the appellant therein and rejected the claim of the respondent no.5 therein on the principle of delay and laches and waiver and acquiescence.

12. So far the judgment of the Hon’ble Supreme Court referred by the learned counsel for the petitioner is concerned, this Court finds that the same is not applicable in the present case, since the same was for waiver of three months period in tendering voluntary retirement, which was not



considered herein its about the delay and laches on the part of the petitioner in waiving his rights since 2007 i.e. almost 17 years.

13. Accordingly, I do not find any merit in the writ petition, the same is dismissed.

(Ritesh Kumar, J)

AjayMishra/-

AFR/NAFR	
CAV DATE	NA
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