

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5251 of 2026

=====

Ram Kawal Ram Son of Late Ram Dahin Ram, Resident of Mohalla-Harkhauli, Ward No. 3, Kharpakawa, P.O.-Mirganj, P.S.-Mirganj, District-Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Superintending Engineer, Command Area Development Directorate, Water Resources Department, Bihar, Patna.
5. The Director (Chief Engineer), Water and Land Management Institute (WALMI), Phulwair Sharif, Patna.
6. The Superintending Engineer, Command Area Development Circle, Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Kamala Kant Tiwary, Advocate
For the Respondent/s	:	Mr. M. N. H. Khan, SC-1
	:	Ms. Babita Kumari, AC to SC-1
For the Res. Nos. 5 & 6	:	Mr. Harshvardhan Shivsundaram, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT

Date : 09-04-2026

Heard the parties.

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

- (i) *For issuance of appropriate writ(s), order(s) and direction(s) in the name of the respondents to grant promotion to the petitioner on the post of Asst. Engineer and subsequent promotion in the rank of higher post of Executive Engineer.*
- (ii) *Further prays for issuance of a direction in the name of Respondents to grant salary and other benefits of Asstt. Engineer for the period in which*



he has worked as Astd. Engineer and accordingly grant all consequential benefits.

3. The brief facts giving rise to the present writ petition are that the petitioner was appointed as a Junior Engineer in the year, 1980 in the Gandak Command Area Development Agency, which is an autonomous body created under the Bihar Agriculture Rural Development Agency Act, 1978. After completion of 8 years of service, he became entitled for promotion to the higher post of Assistant Engineer/Sub-Divisional Officer, but the same was not granted and later on in the year, 1996 vide office order no. 1182 dated 01.10.1996, the charge of Assistant Engineer was conferred upon him, without any benefit of salary and other benefits attached thereto. The petitioner after discharging the duties as Assistant Engineer, superannuated from service on 31.03.2015. It is the case of the petitioner that upgradation list of Junior Engineer was prepared, wherein the name of the petitioner appeared at serial no. 8 and there were 13 posts, as such the petitioner was entitled for being promoted to the post of Assistant Engineer.

4. The learned counsel for the petitioner submits that since the petitioner was appointed on the post of Junior Engineer in the year 1980 and was directed to perform the duties of Assistant Engineer, without any benefits attached to the said post, he was entitled for being promoted to the post of Assistant



Engineer, however the respondent authorities did not take any decision on the regular promotion of the petitioner. He submits that similarly situated persons filed a writ petition before this Hon'ble Court for similar relief. The said writ petition was numbered as C.W.J.C. No. 1476 of 2012 (Mahesh Prasad Singh versus the State of Bihar and others) and was heard along with one another case, wherein vide judgment dated 06.04.2018 passed by a Hon'ble Division Bench of this court, similar benefits were allowed to similarly situated persons. He submits that in view thereof, the petitioner is also entitled for the same benefits.

5. Per contra, the learned counsel appearing on behalf of the respondents submits that the petitioner superannuated from service on 31.03.2015 and during his entire service period or even after his retirement, he did not raise any grievance before any of the authorities concerned and now after 11 years of his retirement, he has filed the present writ petition for giving similar relief, which has been given to the persons, who approached this Hon'ble Court in 2012 itself and the order in their case was passed in 2018. The petitioner was aware about his rights, even then he waived his rights by not raising any dispute/grievance before any of the authorities during his service period or even after his retirement.



Therefore, the writ petition is fit to be dismissed on the ground of delay and laches.

6. Having heard the learned counsel for the parties and after going through the records, this Court finds that the petitioner was appointed in the year 1980 and was given the charge of Assistant Engineer on 01.10.1996. He kept on working on said post as an Ad-hoc Arrangement. He never raised any grievance/claim before the respondent authorities and happily retired on 31.03.2015. He waited for 11 years to woke up from slumber and approached this Court by filing the present writ petition. During his service period and even after his retirement, he waived his right by not raising any grievance against the inaction of the authorities concerned in not granting promotion to him. The law in this regard is very much settled. The Hon'ble Supreme Court of India in a judgment reported in **2015(1) SCC 347 (State of Uttar Pradesh and Others versus Arvind Kumar Srivastava and Others)**, in paragraph nos. 20, 21, 22.2 and 23 has held as follows:-

“20. The Court also quoted the following passage from Halsbury's Laws of England (para 911, p. 395) : (Jaswant Singh case [U.P. Jal Nigam v. Jaswant Singh, (2006) 11 SCC 464 : (2007) 1 SCC (L&S) 500] , SCC pp. 470-71, para 12)



“12. ... ‘In determining whether there has been such delay as to amount to laches, the chief points to be considered are:

(i) acquiescence on the claimant's part; and

(ii) any change of position that has occurred on the defendant's part.

Acquiescence in this sense does not mean standing by while the violation of a right is in progress, but assent after the violation has been completed and the claimant has become aware of it. It is unjust to give the claimant a remedy where, by his conduct, he has done that which might fairly be regarded as equivalent to a waiver of it; or where by his conduct and neglect, though not waiving the remedy, he has put the other party in a position in which it would not be reasonable to place him if the remedy were afterwards to be asserted. In such cases lapse of time and delay are most material. Upon these considerations rests the doctrine of laches.’”

21. *Holding that the respondents had also acquiesced in accepting the retirements, the appeal of U.P. Jal Nigam was allowed with the following reasons : (Jaswant Singh case [U.P. Jal Nigam v. Jaswant Singh, (2006) 11 SCC 464 : (2007) 1 SCC (L&S) 500] , SCC p. 471, para 13)*

“13. In view of the statement of law as summarised above, the respondents are guilty since the respondents have acquiesced in accepting the retirement and did not challenge the same in time. If they would have been vigilant enough, they could have filed writ petitions as others did in the matter.



Therefore, whenever it appears that the claimants lost time or whiled it away and did not rise to the occasion in time for filing the writ petitions, then in such cases, the court should be very slow in granting the relief to the incumbent. Secondly, it has also to be taken into consideration the question of acquiescence or waiver on the part of the incumbent whether other parties are going to be prejudiced if the relief is granted. In the present case, if the respondents would have challenged their retirement being violative of the provisions of the Act, perhaps the Nigam could have taken appropriate steps to raise funds so as to meet the liability but by not asserting their rights the respondents have allowed time to pass and after a lapse of couple of years, they have filed writ petitions claiming the benefit for two years. That will definitely require the Nigam to raise funds which is going to have serious financial repercussions on the financial management of the Nigam. Why should the court come to the rescue of such persons when they themselves are guilty of waiver and acquiescence?"

22.2. *However, this principle is subject to well-recognised exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the*



acquiescence, would be a valid ground to dismiss their claim.

23. Viewed from this angle, in the present case, we find that the selection process took place in the year 1986. Appointment orders were issued in the year 1987, but were also cancelled vide orders dated 22-6-1987. The respondents before us did not challenge these cancellation orders till the year 1996 i.e. for a period of 9 years. It means that they had accepted the cancellation of their appointments. They woke up in the year 1996 only after finding that some other persons whose appointment orders were also cancelled got the relief. By that time, nine years had passed. The earlier judgment had granted the relief to the parties before the Court. It would also be pertinent to highlight that these respondents have not joined service nor working like the employees who succeeded in earlier case before the Tribunal. As of today, 27 years have passed after the issuance of cancellation orders. Therefore, not only was there unexplained delay and laches in filing the claim petition after a period of 9 years, it would be totally unjust to direct the appellants to give them appointment as of today i.e. after a period of 27 years when most of these respondents would be almost 50 years of age or above.”

7. Similar view has been taken by a Hon’ble Division Bench of this Court in its judgment dated 24.03.2026 passed in L.P.A. No. 891 of 2025 (The Patna High Court versus Chandan Kumar and Others), wherein after considering the case of Arvind Kumar Srivastava (supra), the Hon’ble Division Bench proceeded to allow



the writ petition filed by the Patna High Court, by holding that similarly situated persons are ordinarily entitled to equal treatment, however this principle is subject to exceptions, particularly in cases involving delay, laches and acquiescence. Persons who wake up after a long delay cannot claim similar relief as those, who approached the Court on time.

8. Accordingly, in view of the settled propositions of law, this Court finds no merit in the present writ petition and the same is dismissed.

9. Pending application, if any, shall also stands disposed of.

(Ritesh Kumar, J)

AjayMishra/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	15.04.2026
Transmission Date	NA

