

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6501 of 2026

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Maina Devi wife of Late Mangal Chaudhary Resident of village- Godadhowa,
P.O.- Haveli Kharagpur, P.S.- Kharagpur, Dist- Munger

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna
2. The Addl. Chief Secretary, Department of Home, Bihar, Patna
3. The Director General of Police, Bihar, Patna
4. The Inspector General of Police, Bihar, Patna
5. The Superintendent, Central Prison, Bhagalpur
6. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar Pandey, Advocate
For the A.G.	:	Dr. Anand Kumar, Advocate
	:	Ms. Kamya Thakur, Advocate
For the Respondent/s	:	Mr. Syed Hussain Mojeed, AC to SC-6

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL ORDER

2 28-04-2026 Heard the parties.

2. The present writ petition has been filed for quashing the order dated 17.04.2008 vide order no. 77 (Annexure-6) passed by the Superintendent, Central Prison, Bhagalpur whereby service of husband of the petitioner namely Mangal Chaudhary who was passed as Jail Guard (Katchpal) was terminated on the ground of unauthorized leave and also for a direction to the respondents to pay arrears of husband of the petitioner including pension and other benefit which husband of the petitioner entitled, petitioner having no any source of



income and facing monetary crisis regularly represented before the respondents but, no action taken as yet.

3. The learned counsel for the petitioner submits that the late husband of the petitioner was posted as Prison Guard (*katchpal*), who served in different jails in the State of Bihar and Jharkhand. Memo of Charge was served upon the late husband of the petitioner vide memo No. 1399 dated 25.04.2007 for his unauthorised absence from 09.11.2023. The late husband of the petitioner was directed to file his show cause reply in the departmental proceeding, which he submitted on 19.05.2007. After enquiry, the late husband of the petitioner was again directed to submit his second show cause reply on 26.09.2007, which he duly submitted on 03.10.2007. The late husband of the petitioner was held guilty and last opportunity was given to him to submit his reply before the Superintendent, Bhagalpur Central Jail vide Memo No. 4820 dated 12.12.2007 and finally vide order contained in Memo No. 1393 dated 17.04.2008, issued under the signature of the Superintendent, Central Jail, Bhagalpur, the late husband of the petitioner was terminated from service and it was further directed that for the period he remained unauthorizedly absent from duty, will not be treated to be on duty and no payment will be made on the principal of no



work no pay. He further submits that the late husband of the petitioner died on 15.08.2016 and prior to his death, nothing was paid to him.

4. The learned counsel for the petitioner submits that the case of the petitioner deserves sympathetic consideration, since her late husband was terminated from service in the year, 2008 and died on 15.08.2016 and no payment has been made to her or her late husband, by the respondent authorities.

5. Per contra, the learned counsel appearing on behalf of the respondent-State submits that although the punishment order was passed on 17.04.2008, but no statement has been made that whether the late husband of the petitioner accepted the said punishment or had challenged the same or not. He submits that the writ petition has been filed in the year 2026, challenging the order of dismissal of the year 2008, which is fit to be dismissed on the ground of delay and laches and on the principal of waiver and acquiescence.

6. Having heard the learned counsel for the parties and after going through the record, it appears that the impugned order of punishment has been passed vide Memo No. 1393 dated 17.04.2008 and the late husband of the petitioner died on 15.08.2016. Nothing has been brought on record to suggest that



whether the late husband of the petitioner has challenged the said order or had accepted the same. During his lifetime, whether the late husband of the petitioner assailed the order or not, is also not clear. Further, no document has been brought on record to show that whether he raised any objection before any authority for his grievance or not. The law in this regard is very much clear. The late husband of the petitioner waived his right by not challenging the same or accepted the same and now, after a delay of almost 18 years, the present writ petition has been filed.

7. The Hon'ble Supreme Court of India in a case reported in ***(2015) 1 SCC 347 (State of Uttar Pradesh and Others versus Arvind Kumar Srivastava & Ors)*** 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.”*

8. Similarly this Court vide order dated 24.04.2026 passed in ***C.W.J.C. No. 6052 of 2026 (Manoj Kumar versus the State of Bihar and Others)***, in paragraph no. 7 has held as



follows:-

“7. Similarly a Co-ordinate Bench of this Court vide oral judgment dated 25.02.2020, passed in C.W.J.C. No.2276 of 2020 (Arun Kumar Mehta vs. The State of Bihar & Ors.), in paragraph nos.4 to 8 held as follows:

“4. I have heard the learned counsel for the parties and gone through the materials on record. Apparently, there is a delay of about 07 years in filing the present writ petition, even if the appellate order dated 15.12.2012 is taken into account, for which no plausible explanation whatsoever has been furnished, hence the writ petition is fit to be dismissed on the ground of principles of delay and laches, alone.

5. It is a well settled principle of law that stale claims should not be adjudicated by the writ courts. In this connection, reference be had to a judgment rendered by the Hon'ble Apex Court, reported (2015) 15 SCC 602 (State of Jammu and Kashmir vs. R.K. Zalpuri & Others), paragraph nos. 26 to 28 whereof are reproduced herein below:-

“26. In the case at hand, the employee was dismissed from service in the year 1999, but he close not to avail any departmental remedy. He woke up from his slumber to knock at the doors of the High Court after a lapse of five years. The staleness of the claim remained stale and it could not have been allowed to rise like a phoenix by the writ court.



27. *The grievance agitated by the respondent did not deserve to be addressed on merits, for doctrine of delay and laches had already visited his claim like the chill of death which does not spare anyone even the one who fosters the idea and nurtures the attitude that he can sleep to avoid death and eventually proclaim “deo gratias” - ‘thanks to God’.*

28. *Another aspect needs to be stated. A writ court while deciding a writ petition is required to remain alive to the nature of the claim and the unexplained delay on the part of the writ petitioner. Stale claims are not to be adjudicated unless non-interference would cause grave injustice. The present case, needless to emphasise, did not justify adjudication. It deserved to be thrown overboard at the very threshold, for the writ petitioner had accepted the order of dismissal for half a decade and cultivated the feeling that he could freeze time and forever remain in the realm of constant present.”*

6. *In a judgment reported in 1986(4) SCC 566 (State of M.P. & Ors. vs. Nandlal Jaiswal & Ors.), the Hon’ble Apex Court held as follows:-*

“That the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent



and the lethargic. If there is inordinate delay on the part of the petitioner, the Court may decline to intervene and grant relief inasmuch as entertaining such a belated claim would have not only the effect of inflicting hardship and inconvenience but also injustice on third parties and creation of third party rights during the interregnum period, is a matter to be considered while exercising discretionary writ jurisdiction.”

7. In **Chennai Metropolitan Water Supply and Sewerage Board & Ors. Vs. T.T. Murali Babu**, it has been ruled thus:

“Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is re-quired to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the pri-mary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis is at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only



invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant – a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis”.

Karnataka Power Corpn. Ltd. Through its Chairman & Managing Director & Anr Vs. K. Thangappan and Anr would be apposite:- “Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party”. It was, therefore, contended that the appellant itself had agreed with respondent 2 to pay bonus for 1953, 1954, 1955 and 1956 according to the terms of the bonus agreement. It was also pointed out that the appellant had not pressed its objection with regard to jurisdiction before the labour court or the industrial court. But it appears that the decision of this Court in Prakash Cotton



Mills case 1962 (1) LLJ 108] (vide supra) was given on February 16, 1961 after the decision of K. K. Desai, J., on July 1, 1960 and before the decision of the Letters Patent Bench on February 6, 1962. In the circumstances of this case, we do not consider that there is such acquiescence on the part of the appellant as to disentitle it to a grant of writ under Art. 226 of the Constitution. It is true that the issue of a writ certiorari is largely a matter of sound discretion. It is also true that the writ will not be granted if there is such negligence or omission on the part of the applicant to assert his right as, taken in conjunction with the lapse of time and other circumstance, cause prejudice to the adverse party. The principle is to a great extent, though not identical with, similar to the exercise of discretion in the Court of Chancery. The principle has been clearly stated by Sri Barnes Peacock in Lindsay Petroleum Company v. Prosper Armstrong Hurd, Abram Farewell and John Kemp [Law Reports 5 P.C., 221 at 239] as follows:”

Now the doctrine of laches in courts of equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and



neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitation, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy.”

8. *Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties as also taking into account the law enunciated by the Hon'ble Apex Court in the cases referred to hereinabove, regarding the principles of delay and laches, this Court finds that as far as the present case is concerned, no plausible explanation has been furnished by the petitioner so as to convincingly explain the delay in question of about 07 years in approaching this Court, hence the present*



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

9. Considering the above and in view of the settled legal proposition, I do not find any merit in the writ petition and the same is dismissed accordingly.

(Ritesh Kumar, J)

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