

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8780 of 2026

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Kripa Nath Mishra son of Late Dev Narayan Mishra, Resident of village-
Anrer, Post and Police Station-Arerhat, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The District Magistrate, Madhubani.
3. The District Education Officer, Madhubani.
4. The District Project Officer, District Education Office, Madhubani.
5. The Accountant General (A and E), Birchand Patel Path, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Nilendu Kumar Choudhary, Advocate
For the State	:	S.C.15
For the A.G.	:	Mrs. Ritika Rani, Advocate

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT

Date : 29-06-2026

Heard the learned counsel for the petitioner and the
learned counsel appearing on behalf of the State.

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

“1. That the present writ application is
being preferred by the above-named petitioner for
issuance of appropriate writ/writs, order/orders,
direction/directions to the Respondent Authorities,
particularly Respondent No. 3, to provide the benefit
of enhanced salary which the petitioner had been
receiving after getting promoted to Senior Division
from Junior Division through Memo No. 6801-2
issued under the signature of District Superintendent
of Education, Madhubani, which was stopped from



01.03.1989 as it was stated that the petitioner was promoted without approval of the District Establishment Committee and/or for any other relief or reliefs to which the petitioner may be found entitled to in course of hearing of this writ petition.”

SUBMISSIONS ON BEHALF OF THE PETITIONER

3. The learned counsel for the petitioner submits that the petitioner was appointed on the post of Assistant Teacher in the year 1960 in Primary Middle School, Pipron, Madhubani and after serving as a Teacher, he superannuated on 28.02.2002 from Middle School, Gadiyani, Madhubani. He submits that the petitioner was promoted to the Senior Division from Junior Division w.e.f. 01.04.1981 and accordingly his salary/pay was fixed vide Memo No.6801-2 dated 28.12.1988, issued under the signature of the District Superintendent of Education, Madhubani. Vide Memo No.376 dated 19.01.1990, issued under the signature of the District Superintendent of Education, Madhubani, the difference of pay on account of grant of senior pay scale was also paid to him. He submits that the petitioner received the enhanced salary till 01.03.1989 and vide Memo No.1818/Madhubani dated 27.10.1990, issued under the signature of the District Superintendent of Education, Madhubani, the same was withdrawn and the petitioner was informed that his service book would be placed in the next meeting of the District Establishment Committee for final approval and therefore interim pay fixation



was done until the said decision. The learned counsel for the petitioner further submits that till his retirement on 28.02.2002, he received the salary at reduced pay scale, which he received till 01.03.1989. After his retirement, on 30.07.2019 the petitioner submitted a representation to the District Project Officer, District Education Office, Madhubani with a request to restore the pay, which he was getting prior to 01.03.1989. When no action was taken on the representation filed by the petitioner, he again filed a representation on 25.04.2020 before the District Project Officer, District Education Office, Madhubani, however the same remained pending at the level of the respondent authorities. He again filed a representation on 08.09.2020, however no decision was taken on the same. The petitioner filed a writ petition bearing C.W.J.C. No.2662 of 2021 before this Hon'ble Court and the same was disposed of vide order dated 24.03.2022 passed by a Hon'ble Single Judge of this Hon'ble Court with a liberty to the petitioner to file an appropriate petition before the State Appellate Authority in terms of judgment dated 23.02.2022 passed in C.W.J.C. No.5489 of 2020 (Suresh Ram Vs. The State of Bihar & Ors.). The petitioner preferred his appeal in terms of the liberty given by this Hon'ble Court in C.W.J.C. No.2662 of 2021. The appeal preferred by the petitioner was numbered as Case No.08/2022, however due to non-functioning of the District Appellate Authority, the same



became time barred, since the decision was to be taken within three months. Later on, vide judgment dated 18.01.2023 passed in L.P.A. No.255 of 2022 (Dhananjay Singh & Ors. Vs. The State of Bihar & Ors. and its analogous cases), the Hon'ble Division Bench observed that in the light of the Rules read with status of the appellants, it is clear that they are Government Teachers and ultimately they are governed by Rules, 2018 and hence, the cited decisions by the learned Single Judge are not applicable to the appellant's case. The learned counsel for the petitioner submits that in view of the liberty given by this Hon'ble Court in C.W.J.C. No.2662 of 2021 and in view of the subsequent decision of L.P.A. No.255 of 2022, the petitioner has preferred the present writ petition. The learned counsel for the petitioner submits that the petitioner was entitled for the relief which was withdrawn w.e.f. 01.03.1989, however he did not assail the same since in the said decision, it was stated that the pay fixation is made as an interim measure and final decision will be taken on the same later on. He submits that the petitioner deserves to be granted the same pay scale, which was being given to him prior to 01.03.1989, since the same was withdrawn unilaterally, without any information to the petitioner.

SUBMISSIONS ON BEHALF OF THE STATE-RESPONDENTS

4. *Per contra*, the learned counsel appearing on behalf



of the State submits that the pay scale, which the petitioner was getting, was withdrawn w.e.f. 01.03.1989 and the petitioner retired on 28.02.2002. Till 2002, he never raised any objection and even till 2019, he did not raise any objection and one fine morning in 2019, he filed a representation before the respondent authorities raising his grievance with regard to non-grant of the pay scale for which he was entitled. He submits that even he has not assailed the order contained in Annexure-P/3, issued vide Memo No.1618 dated 27.10.1990 and received all his post retirement benefits on the same pay scale, which was fixed vide Memo No.1618 dated 27.10.1990 and now after almost 36 years has filed the present writ petition.

CONCLUSION/CONSIDERATION

5. Having heard the learned counsel for the parties and after going through the records, it appears that vide letter dated 27.10.1990, the District Superintendent of Education, Madhubani informed the petitioner with regard to interim fixation of his pay and informed that final decision will be taken later on. The petitioner superannuated from service on 28.02.2002, however during entire service period, he did not raise any grievance before any of the respondent authorities. Even for more than 17 years of his retirement, he did not raise any grievance and all of a sudden on 30.07.2019 filed a representation before the respondent



authorities and subsequently sent reminders, however no decision was taken on the same. He filed a writ petition in 2021, however the same was disposed of with a liberty to him to avail the remedy available before the State Appellate Authority. Subsequently, the order, on the basis of which the writ filed by the petitioner was disposed of, was modified and it was observed that the appellants of those cases were government teachers and in terms thereof the writ petition filed by them is maintainable. Accordingly, he again preferred this writ petition for grant of the pay scale, which he was entitled w.e.f. 01.03.1989. It appears that the petitioner, for the first time, raised his grievance after 30 years of withdrawal of the said pay scale and that too without assailing the same before any forum. The law in this regard is very much clear that a person, who is not vigilant for his right, cannot be granted any indulgence to approach the Court after delay, which in this case is 30 years. The Hon'ble Supreme Court of India in the case of *The State of Tamil Nadu & Anr. Vs. R. Sasipriya & Anr., passed in Civil Appeal Nos.6883-6884 of 2026 and another analogous case* in paragraph nos.25, 25.2 and 26 has held as follows:

“25. As far as the impleading applicant, K. Saravanakumar is concerned, he was not party to any of the proceedings before the High Court, nor did he choose to intervene or seek impleadment in the lis between the appellant and Respondent No. 1.



It is only before this Court that he sought impleadment. In paragraphs 31 to 33 of his affidavit, he himself states that disciplinary proceedings are pending against him, thereby showing that he is, in any event, not presently entitled to promotion.

*25.2. This Court finds him to be a fence-sitter. It is settled law that fence-sitters cannot be permitted to raise a dispute relating to seniority and consequential promotion or challenge the validity of an order after the matter has concluded. No party can claim relief as a matter of right, and one of the well-recognised grounds for refusing relief is that the person approaching the Court is guilty of delay and laches. A court exercising public law jurisdiction does not encourage the agitation of stale claims, particularly in matters of seniority and promotion, where the rights of third parties have crystallised in the interregnum [See **Shiba Shankar Mohapatra and others v. State of Orissa and others, (2010) 12 SCC 471**]. Therefore, no relief can be granted to the impleading applicant.*

26. As far as the impleading applicant, S. Velumayil is concerned, in his application, he himself admitted that in the revised seniority list, he is junior to the appellant and Respondent No. 1, and senior to K. Saravanakumar. Moreover, he raised objections to the consideration of the claim of the impleading applicant K. Saravanakumar. Since this Court has rejected the claim of K. Saravanakumar on



the ground that he is a fence-sitter, the present impleading applicant is also not entitled to any relief in these appeals.”

6. Similarly, a Division Bench of this Court in a judgment dated 24.03.2026 passed in ***L.P.A. No. 891 of 2025 (The Patna High Court through its Registrar General, Patna High Court & Ors. versus Chandan Kumar & Ors.)***, in paragraph nos. 55 & 60, has held as follows:-

“55. Thirdly, the issue of delay and laches, though noticed, has not been adequately appreciated in its proper legal perspective. The appellants had specifically contended that the writ petitioner approached the Court after a considerable lapse of time and, therefore, could not claim parity with those who had been vigilant in asserting their rights. The Hon’ble Supreme Court in State of U.P. vs. Arvind Kumar Srivastava (Supra) has clearly held that though similarly situated persons are ordinarily entitled to equal treatment, this principle is subject to exceptions, particularly in cases involving delay, laches and acquiescence. Persons who wake up after long delay cannot claim the same relief as those who approached the Court in time.

60. In view of the discussions and conclusions arrived at on the issues framed hereinabove, this Court is of the considered opinion that the impugned judgment and order dated 09.07.2025



passed by the learned Single Judge cannot be sustained in the eyes of law, inasmuch as the same proceeds on an erroneous application of legal principles, extends the benefit of earlier judgments beyond their intended scope, and overlooks material aspects relating to delay, laches and the statutory framework governing the field. The reasoning so adopted does not stand to judicial scrutiny and has resulted in an unwarranted direction for consideration of the writ petitioner's case."

7. Similar view has been taken by an Hon'ble Division Bench of this Court in its judgment dated 10.04.2026 passed in ***L.P.A. No. 762 of 2025 (Raj Kumar Jha versus the State of Bihar & Ors.)***, wherein in paragraph no.8 it has been held as follows:-

"8. Law is well settled that mere representation does not extend the period of limitation and the aggrieved person has to approach the Court expeditiously and within a reasonable time. If it is found that the writ petitioner is guilty of delay and laches, the High Court would be fully justified to dismiss the writ petition at the threshold. Equity aids the vigilant, not the indolent. Courts of equity grant relief to only those who actively protect their rights, not those who sleep on them. It demands prompt action to prevent injustice.

*In the case of **P.S. Sadashivaswamy -Vrs.- State of Tamil Nadu reported in (1975) 1 Supreme Court Cases 152**, the Hon'ble*



Supreme Court has been pleased to observe that in a service matter, an aggrieved party should approach the Court at least within six months or at the most a year of the arising of the cause of action, and it would be sound and wise exercise of discretion for the Court to refuse the exercise the extraordinary power under Article 226 of the Constitution of India and in case the petitioner does not approach it expeditiously for relief, such petition should be dismissed in limine as entertaining such petition is a wastage of time of the Court and it would impede the work of the Court in considering the legitimate grievances. It is the settled law 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 scrutinize whether the belated approach should be entertained or not. Inordinate delay would invite disaster for the litigant who knocks at the doors of the Court.

Remaining innocuously oblivious to the delay does not foster the cause of justice, on the contrary it brings injustice and it is likely to affect others. A Court is not expected to give indulgence to the indolent persons who compete with Kumbhkarana and the delay does not deserve any indulgence and on that ground alone, the writ Court can throw the petition



overboard at the very threshold.”

8. Similar view has been taken by the *Hon'ble Supreme Court of India in the case of State of Uttar pradesh Vs. Arvind Kumar Srivastava and Ors reported in 2015 (1) SCC 347* has held as follows:-

“Normal rule is that when an employee is given relief by the Court, all other identically situated persons should be treated alike by extending same benefit. But this rule has an exception in the form of laches, delay and acquiescence and for fence sitters who wake up after long delay after their counterparts who had approached the Court earlier in time succeeded in their efforts. Further, there is also an exception to this exception which is that delay and laches would not be applicable where the judgment pronounced by the Court is a judgment in-rem with intention to give benefit to all similarly situated persons (such as those decisions which touch policy matters) whether they have approached the Court or not and in such cases obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. But on the other hand, if the



judgment of the Court was in-personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get its benefit shall have to satisfy that their writ petition does not suffer from either laches and delays or acquiescence.”

9. Similar view has been taken by a Co-ordinate Bench of this Court in a judgment dated 22.02.2024 in **C.W.J.C. No. 1063 of 2024 (Chandra Madhav Singh Vs. The State of Bihar & Ors)**, wherein the Co-ordinate Bench after considering different judgments of the Hon’ble Supreme Court of India in paragraph No. 10 and 11 has held as follows and proceeded to dismiss the writ petition:-

“10. In the present case also the petitioner waited till the decision of Prince Kumar & Ors. (supra) & other analogous cases and approached this Court after a lapse of more than five years of the arising of cause of action and about one year of passing of the aforesaid judgment in the case of Prince Kumar & Ors. (Supra), hence



the petitioner cannot be granted the same relief, in view of the delay and laches on his part in approaching this Court and being mere fence-sitter who had not taken up the litigation at the appropriate time when the other petitioners were decided by this Court, especially when the Appellants of the aforesaid LPA No.650 of 2022 (Prince Kr. & Ors. Vs. The State of Bihar & Ors.) & other analogous cases had approached this Court by filing writ petitions in this year 2019 itself, thus apparently, the petitioner kept sleeping over his right for long and woke up only when he had the impetus from the judgment, rendered by the learned Division Bench of this Court in the case of Prince Kumar & Ors. (Supra).

11. It is well settled law that delay disentitles the party discretionary relief under Article 226 and Article 32 of the Constitution of India. Thus, the litigant who was sitting on fence and waiting for the result of the litigation initiated by other litigants promptly and only after a favourable result, has approached the Court to seek equality, should not be encouraged/entertained.”



10. Recently this Court in ***C.W.J.C. No. 17749 of 2023 (Amit Kumar Vs. The State of Bihar and Ors.)*** vide judgment dated 26.02.2026 in paragraph no.19 has held as follows.

“19. From the argument advanced by the learned counsel for the parties and after having gone through the pleadings on record, including the different judicial pronouncements relied upon by the learned counsel for the petitioner and learned counsel appearing on behalf of respondents No. 2 and 3, I find that in the present case also the petitioner waited till the decision of L.P.A. No. 650 of 2022 Prince & Others Vs. State of Bihar & Others and approached this Court after a lapse of more than five years of arising of the cause of action and about one year of the passing of the aforesaid judgment in the case of Prince and Ors (supra), therefore, the petitioner cannot be granted some relief, in view of the delay and laches on his part in approaching this Court and being merely a fence sitter who had not taken up the litigation at the appropriate time, when the other petitions were decided by this Court, especially when the appellants of the aforesaid case i.e. L.P.A. No. 650 of 2022 and its analogous cases had approached this Court by filing writ petitions in the year 2019 itself, thus



apparently, the petitioner kept sleeping over his right for long and woke up only when he had the impetus from the judgment, rendered by the Hon’ble Division Bench of this Court in the case of Prince and Ors (supra).”

11. Considering the decisions of the Hon’ble Supreme Court of India, the decision of the learned Co-ordinate Bench as well as the Hon’ble Division Bench of this Hon’ble Court, this Court is of the opinion that the writ petition is fit to be dismissed and is accordingly dismissed on account of delay and laches as well as waiver and acquiescence.

12. Pending application(s), if any, shall also stand disposed of.

(Ritesh Kumar, J.)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.07.2026
Transmission Date	NA

