

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1240 of 2024
In
Civil Writ Jurisdiction Case No.8549 of 2024

Narayan Kumar Bharti, Male, aged about 62 years, son of Late Raghunath Mahto, resident of North Patliputra Colony, P.S. Patliputra, District-Patna, Bihar.

... .. Appellant

Versus

1. The State of Bihar through the Principal Secretary, Department of Road Construction, Government of Bihar, Bailey Road, Patna.
2. The Superintending Engineer, National Highway Circle, Dehri-on-Sone, Rohtas.
3. Engineer-in- Chief, Road Construction Department, Bailey Road, Patna, Bihar.
4. Assistant Commissioner, Directorate of Government Provident Fund, Pant Bhawan, Boring Road, Patna.

... .. Respondents

Appearance :
For the Appellant : Mr. Ambuj Kumar Chandra, Advocate
For the Respondents : Mr. Government Advocate (13)

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RANJAN KUMAR JHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

7 06-07-2026 Heard learned counsel for the appellant through video conferencing and learned counsel for the respondents.

2. The present *intra court* appeal has been preferred against the judgment and order dated 27.11.2024 passed by the learned Single Judge in C.W.J.C. No. 8549 of 2024, whereby the writ application filed by the appellant came to be disposed of.



3. The present appeal arises out of the controversy regarding the appellant's entitlement to the release of the amount standing to his credit in the General Provident Fund (GPF) account for the period from 02.07.1991, the date of his appointment as an Assistant Engineer under the Government of Bihar, till 09.04.2012, when he was dismissed from service. The appellant served the State Government in different capacities and at various places of posting during the aforesaid period.

4. During the course of his service, a departmental proceeding was initiated against the appellant on allegations of financial defalcation. Consequent upon the said proceeding, the appellant was dismissed from service vide Notification No. 3931(S) dated 09.04.2012. The order of dismissal has been assailed by the appellant in CWJC No. 6681 of 2013, which is stated to be pending adjudication before this Court.

5. The appellant relies upon a Utilization Certificate dated 11.10.2017 issued by the Department of Urban Development and Housing to contend that the amount alleged to have been defalcated had, in fact, been duly utilized for the intended purpose. According to the appellant, the said document demonstrates that no financial loss was caused to the State.

6. The appellant attained the age of superannuation on



30.06.2022. Despite the same, the amount standing to his credit in the General Provident Fund account was not released. The appellant claims to have made repeated representations before the concerned authorities seeking payment of his GPF dues, but no decision was taken thereon.

7. Aggrieved by the non-release of the provident fund amount, the appellant preferred CWJC No. 8549 of 2024 seeking a direction upon the respondents to release the entire GPF amount due to him.

8. The learned Single Judge, while disposing the said writ petition, *vide* order dated 27.11.2024, observed as follows:

“2. Since, the petitioner was dismissed in the year, 2012 and he has approached this Court after nearly a decade, I do not find that the petitioner can be said to be conscious about his right and the relief(s) as prayed for in the present writ petition can very well be redressed at the level of the District Provident Officer or the petitioner may avail appropriate remedy in accordance with law.

3. With the above observation/direction, the present writ petition stands disposed of.”

9. Learned counsel for the appellant submits that the learned Single Judge failed to appreciate that the writ petition was filed solely for release of the amount standing to the appellant's credit in his General Provident Fund (GPF) account, which is his statutory entitlement, and not for adjudication of



the validity of the dismissal order.

10. It is further submitted that the learned Single Judge erred in treating the delay in filing the writ petition as a ground to decline relief. According to the appellant, the claim for payment of GPF is independent of the challenge to the dismissal order and the respondents cannot withhold the appellant's own provident fund contribution without authority of law.

11. Learned counsel submits that the delay, if any, stood sufficiently explained as the appellant had already challenged the order of dismissal in CWJC No. 6681 of 2013 and was expecting reinstatement in service. It is contended that after attaining the age of superannuation and despite repeated representations, the respondents failed to release the GPF amount, compelling the appellant to approach this Court.

12. It is also submitted that there is no statutory bar or prescribed limitation for seeking release of GPF dues in exercise of writ jurisdiction. The learned Single Judge, therefore, ought to have examined the appellant's claim on merits instead of relegating him to another forum.

13. Lastly, learned counsel submits that the appellant seeks only the release of his own GPF contribution and that the



continued withholding of the amount has caused him considerable financial hardship. It is, therefore, prayed that the impugned order be set aside and the respondents be directed to release the appellant's GPF dues in accordance with law.

14. Per contra, learned counsel appearing for the respondents submits that the learned Single Judge, while disposing of the writ petition by order dated 27.11.2024, had rightly granted liberty to the appellant to approach the District Provident Fund Officer or avail such other remedy as may be available in accordance with law.

15. It is further submitted that the appellant approached this Court after an unexplained delay of more than twelve years from the date of his dismissal from service in the year 2012. In such circumstances, the learned Single Judge rightly declined to issue a writ of mandamus and relegated the appellant to the appropriate authority.

16. Learned counsel further submits that, pursuant to the liberty granted by the learned Single Judge, the department, vide Letter No. 6487(S) dated 20.12.2024, requested the appellant to furnish BTC Form-56, duly filled in, for final withdrawal of the amount standing to his credit in GPF Account No. BHR/BES-7560. However, despite such request, the



appellant failed to submit the requisite form.

17. It is, therefore, submitted that the appellant himself has not complied with the procedural requirements for withdrawal of the GPF amount and cannot attribute the delay to the respondents. In the absence of compliance with the departmental requirements, no direction for release of the GPF amount can be issued.

18. The limited issue which arises for consideration is that whether the learned Single Judge was justified in declining the appellant's claim for release of his General Provident Fund (GPF) dues on the ground of delay and relegating him to the appropriate authority and, consequently, whether the impugned order warrants interference in exercise of the *intra court* appellate jurisdiction of this Court.

19. Having considered the rival submissions and the materials placed on record, this Court proceeds to examine the controversy in the backdrop of the undisputed facts of the case.

20. It is not in dispute that the appellant was dismissed from service on 09.04.2012. The writ petition seeking release of the amount standing to his credit in the GPF account was instituted only in the year 2024, after a lapse of more than twelve years. The explanation offered by the appellant is that he



was awaiting the outcome of CWJC No. 6681 of 2013, wherein the order of dismissal has been challenged. However, this Court finds that the said explanation, by itself, does not satisfactorily account for the prolonged delay in invoking the extraordinary writ jurisdiction of this Court, particularly when the relief claimed in the writ petition relates to release of GPF dues.

21. It is well settled that although no statutory period of limitation is prescribed for invoking the jurisdiction under Article 226 of the Constitution, the exercise of such jurisdiction is discretionary and is governed by equitable principles. A writ petitioner is expected to approach the Court within a reasonable time.

22. *In State of Madhya Pradesh v. Bhailal Bhai, reported in AIR 1964 SC 1006*, the Hon'ble Supreme Court held that unexplained and unreasonable delay may, by itself, justify refusal of relief under Article 226. The relevant part of the said order reads as follows:

“17. ..It may however be stated as a general Rule that if there has been unreasonable delay the court ought not ordinarily to lend its aid to a party by this extraordinary remedy of mandamus. Again, where even if there is no such delay the Government or the statutory authority against whom the consequential relief is prayed for raises a prima facie triable issue as regards the availability of such relief on



the merits on the grounds like limitation the court should ordinarily refuse to issue the writ of mandamus for such payment. In both these kinds of cases it will be sound use of discretion to leave the party to seek his remedy by the ordinary mode of action in a Civil Court and to refuse to exercise in his favour the extraordinary remedy under Article 226 of the Constitution.”

23. The said principle has been consistently reiterated by the Supreme Court. In ***Chennai Metropolitan Water Supply and Sewerage Board v. T.T. Murali Babu, reported in (2014) 4 SCC 108***, the Court observed that delay and laches are significant factors while exercising discretionary writ jurisdiction and that equity does not assist those who sleep over their rights. The relevant part of the said order reads as follows:

“16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required 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 primary 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 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.

17. In the case at hand, though there has been four years' delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinise whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons — who compete with “Kumbhakarna” or for that matter “Rip Van Winkle”. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold.”

24. Applying the aforesaid principles to the facts of the present case, this Court is of the view that the learned Single Judge cannot be said to be at fault for taking note of the inordinate delay on the part of the appellant. Significantly, the



learned Single Judge did not reject the appellant's claim on merits. Instead, the appellant was left at liberty to pursue his claim before the competent authority in accordance with law. Thus, the impugned order neither determines the appellant's entitlement adversely nor forecloses his right to seek release of the GPF amount through the appropriate procedure.

25. In view of the aforesaid, this Court is of the view that the impugned order does not suffer from any jurisdictional error, perversity or patent illegality warranting interference in exercise of the *intra court* appellate jurisdiction of this Court.

26. The issue framed by this Court is therefore answered against the appellant.

27. Accordingly, the present *intra court* appeal stands disposed of.

28. However, in view of the statement made by the respondents in the counter affidavit, which is reproduced hereinbelow, it is expected that the respondent-authorities shall ensure release/payment of the remaining amount of the General Provident Fund (GPF), if any, in accordance with law and within a reasonable period.

“12. That the present respondent very humbly submits that due to non-availability of the approval Final Withdrawal Application Form (BTC-56



Form) and other requisitioned documents required to be provided by the parent department and the deduction statements of the GPF account of the appellant, the present respondent is not able to calculate and authorize the GPF amount of the appellant.

13. That as soon as the requisitioned documents are made available to the office of the present respondent, the accumulated GPF amount of the appellant shall be authorized at the earliest.”

29. To the aforesaid extent, the appellant shall be at liberty to submit a representation before the competent authority for redressal of his grievance, which shall be considered in accordance with law.

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

(Sudhir Singh, J)

(Ranjan Kumar Jha, J)

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