
(2010) 04 PAT CK 0097
In the Patna High Court

Rameshwar Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 08-04-2010

Acts Referred:

Citation : (2010) 04 PAT CK 0097

Final Decision : Dismissed

Judgement

IA. No. 3433 of 2010

1. This is an application for condonation of delay of 11 days in preferring the appeal.

2. Having heard Mr. Rajendra Narain, learned Counsel for the appellant, Mr. Sanjay Kumar, learned Counsel for the State, and Mr. Rajgrihar, learned Counsel for the Accountant General, Bihar, we are of the considered opinion that the delay in filing the appeal deserves to be condoned and accordingly it is so ordered.

3. Interlocutory application stands allowed.

LPA. No. 655 of 2010

4. As we have condoned the delay, we think it apt to take up the appeal for admission and final disposal. On consent of learned Counsel for the parties, it is finally heard.

5. The appellant - petitioner stood superannuated on 31.7.1998. By that time, he was not extended the benefit of Time Bound Promotion Scheme. He had submitted a representation seeking exemption from appearing in the professional examination which is requisite to have the benefit of Time Bound Promotion Scheme. The application for exemption was not dealt with for a longer time and ultimately it was allowed on 31.7.1998, the date of superannuation.

6. As the factual matrix would reveal, the appellant being aggrieved by non-

extension of the benefit of the Time Bound Promotion Scheme approached this Court in CWJC. No. 7864 of 2003 and withdrew the same to pursue his claim before the authorities. His approach to the authorities of the State Government became an exercise in futility inasmuch as the said prayer was rejected by order dated 17.4.2008. The same compelled him to file CWJC. No. 1672 of 2008. The learned Single Judge by order dated 25.1.2010 has dismissed the writ petition primarily on the ground that the grievance agitated is hit by doctrine of delay and laches. To arrive at the said conclusion, he has placed reliance on the decision in C. Jacob Vs. Director of Geology and Mining Indus. Est. and Another,

7. It is submitted by learned Counsel for the appellant that the State Government despite having the role of a model employer should not have sat over the application seeking exemption for a longer time. Had the said application been allowed in quite promptitude the appellant would have been allowed the benefit of Time Bound Promotion Scheme. It is also highlighted by him that the learned Single Judge has erroneously thrown the writ petition overboard on the ground of delay and laches though the chronology of events would vividly show that the appellant was totally diligent in pursuing his cause.

8. Mr. Sanjay Kumar, learned Counsel for the State, and Mr. Rajgrihar, learned Counsel for the Accountant General, Bihar, have supported the order passed by the learned Single Judge.

9. To appreciate the submissions raised at the Bar, we think it apt to refer to the order dated 29.7.2005, which was passed in CWJC. No. 7864 of 2003. The same reads as follows:

After realizing the difficulty in pursuing the writ petition in this Court, learned Counsel for the petitioner has rightly sought permission to withdraw the writ petition with liberty to the petitioner to pursue his claim before the authority concerned.

Writ petition is, thus, permitted to be withdrawn with a liberty aforementioned.

10. We have referred to the said order as the same has been sought to be placed reliance upon as if it is the edifice. The order that has been hereinabove reproduced speaks eloquently for itself that this Court was not really impressed by the submission canvassed at the Bar and that is why it has been mentioned that the petitioner rightly sought permission to withdraw the application to approach the authorities. The authorities could have granted the benefit in their wisdom but, they have declined to do so. The cause of action that had once arisen had already become extinct and cannot be allowed to rise like a phoenix at this stage.

11. Mr. Rajendra Narain, learned Counsel for the appellant, further submits that the rejection of the representation in 2008 gave rise to a fresh cause of action. We are bound to presume, the appellant harbors that when a representation is dealt with at whatever time that gives rise to a fresh cause of action but, this

kind of feeling is comparable to building a castle in Spain and hence, has to be shown the path of extinction and we so do.

12. At this juncture, we think it apt to say that the appellant though sought exemption in the year 1991 but the same was not granted immediately. He did not challenge the same till 1998. He remained in slumber for almost seven years. When it was granted, he again slept for five years and thereafter knocked at the doors of this Court. In this context, it would not be out of place to say that everything meets with the death in the world except the spirit of hope that remains in the heart of an individual. The appellant, a septuagenarian, has nurtured the said feeling of hope but hope alone does not sustain a cause in a court of law. The appellant is required to cross the Rubicon as provided in law and not keep the aspiration alive in his mind, for a thought in mind has to be crystallized to an action. That having not been fructified, as the factual matrix would show, we are afraid, the doctrine of delay and laches really holds the case of the appellant like an octopus and eventually corrodes it. Thus, we perceive no merit in this appeal and the same is dismissed without any order as to costs.