

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5708 of 2021

1. Shyam Nandan Roy Son of Late Harilal Rai, resident of Village Simaria, Police Station Barauni, District - Begusarai.
2. Ashok Kumar Singh, Son of Siyaram Singh, resident of Village Bihat Zero Mile, Police Station- Barauni, District - Begusarai.
3. Jagdish Bhagat, Son of Late Snehi Bhagat, resident of Village Hawaspur, Police Station Barauni, District - Begusarai.
4. Ram Naresh Rai, Son of Late Ram Jatan Rai, resident of Village Rachiahi Nayatola, Police Station- Matihani, District - Begusarai.
5. Bhattu Rai, Son of Ram Bahadur Rai, resident of Village Rachiahi Nayatola, Police Station- Matihani, District - Begusarai.

... .. Petitioner/s

Versus

1. Union of India through the Secretary, Department of Chemical and Fertilizer, Government of India, New Delhi.
2. The Secretary, Department of Chemical and Fertilizer, Government of India, New Delhi.
3. The Under Secretary, Department of Fertilizers, Ministry of Chemicals and Fertilizers, Government of India, Shastri Bhawan, New Delhi.
4. Hindustan Urvarak and Rasayan Ltd. having its Corporate Office at Core- 3, 9th Floor, SCOPE Minar, Laxmi Nagar District Centre, New Delhi- 110092 through its Managing Director.
5. The Managing Director, Hindustan Urvarak and Rasayan Ltd. having its Corporate Office at Core-3, 9th Floor, SCOPE Minar, Laxmi Nagar District Centre, New Delhi- 110092.
6. Hindustan Fertilizer Corporation Ltd. Madhuvan- 55, Nehru Place, New Delhi- 110019 through its Managing Director.
7. The Managing Director, Hindustan Fertilizer Corporation Ltd. Madhuvan-55, Nehru Place, New Delhi- 110019.
8. Brahmaputra Valley Fertilizer Corporation Ltd. P.O. Parbatpur, District - Dibrugarh, Pin- 786623 through its Managing Director.
9. The Managing Director, Brahmaputra Valley Fertilizer Corporation Ltd P.O. Parbatpur, District - Dibrugarh, Pin- 786623.
10. Projects and Development India Ltd. PDIL Bhawan, A- 14, Sector -I, NOIDA- 201301, District - Gautam Buddha Nagar, U.P. India through its Managing Director.
11. The Managing Director, Projects and Development India Ltd. PDIL Bhawan, A- 14, Sector - I, NOIDA- 201301, District - Gautam Buddha Nagar, U.P. India.
12. Rashtriya Chemicals and Fertilizers Ltd having its registered Office at Priyadarshini, Eastern Express Highway Mumbai - 400022 through its Managing Director.



13. The Managing Director, Rashtriya Chemicals and Fertilizers Ltd having its registered Officer at Priyadarshini, Eastern Express Highway Mumbai - 400022.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. P.N. Shahi, Sr. Advocate
Mr. Gajendra Kumar Singh, Advocate
For the Respondent/s : Mr. Dr. Krishna Nandan Singh (ASG)
Mr. Manoj Kumar Singh, CGC
Mr. Bishwajeet Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 07-03-2022

Heard learned counsel for respective parties.

In the instant petition, petitioners have prayed for the following reliefs:-

“For commanding the respondents to appoint/accommodate the petitioners in service on any Public Sector unit of the Government of India and also after taking into account the factum of revival of Hindustan Fertilizer Company namely Hindustan Urvarak and Rasayan Ltd. for which earlier directions had been issued by this Hon’ble Court vide order dated 28.07.2010 passed in C.W.J.C. No. 11912 of 2009 read with order dated 12.09.2011 passed in M.J.C. No. 1134 of 2011.”

Petitioners were ex-employees of the Hindustan Urvarak and Rasayan Limited. The aforesaid corporation stated to have been closed. In the result, the employees were settled with certain compensation. Thereafter, Government of India has taken a decision to accommodate ex-employee of the aforesaid Corporation in some other organization of Government of India by virtue of Cir-



cular dated 13.08.2004. The petitioners and others filed a petition in the year 2009 *vide* CWJC No. 11912 of 2009 and it was decided in favour of the petitioners only to the extent of examining the petitioners' claim. Due to non-compliance the petitioners preferred contempt petition. During the pendency of the contempt petition the respondents have passed an order in the year 2011. Thereafter, the petitioners have slept over the matter till presenting of the present petition.

Learned counsel for the petitioners submitted that cause of action still subsists in view of various correspondence by the Government in the year 2018 *vide* Annexure 6 & 7.

It is to be noted that the petitioners have slept over the matter from 20.01.2011 (Annexure-4) till the date of presentation of this petition. Assuming that there were certain correspondence among the respondents in the year 2018 that does not cure the delay and laches from the year 2011 to 2021.

Having regard to the fact that the petitioners have slept over the matter. Moreover, except petitioner no. 2 rest of them have already crossed age of sixty years. Hon'ble Apex Court in the case of ***Jammu and Kashmir V. R.K. Zalpuri*** repored in ***AIR 2016 SC 3006*** at para 20 held as under:-

“20. *Having stated thus, it is useful to refer to a passage from City and*



Industrial Development Corporation V. Dosu Aardeshir Bhiwandiwalla and Others, wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus:-

“The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;

(b) the petition reveals all material facts;

(c) the petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by any valid law; and host of other factors.”

And also Hon’ble Apex Court in the case of ***State of Rajsthan Vs. Surji Devi*** reported in ***(2022) 1 SCC 17*** at para 6 to 9 held as under:-

“6. The facts which emerged are that the late husband of the respondent was removed/dismissed from service by order dated 16-12-1996. He preferred an appeal which was pending before the appellate authority. During the pendency of the appeal, the late husband of the respondent - employee died/passed away in the year 2009. If the late husband of the respondent would not have been termi-



nated/dismissed he would have attained the age of superannuation in the year 1999. After the death of the employee – late husband of the respondent she did not pursue the appeal, may be she might not be aware of filing/pendency of the appeal. That thereafter the respondent – widow of the employee filed a writ petition before the High Court in the year 2012. Thus, by the time the respondent preferred a writ petition before the High Court, 15 years had passed from the date of termination and even approximately 13 years from the date on which the employee would have attained the age of superannuation i.e. from the year 1999.

7. Considering the aforesaid facts and circumstances, as such, the learned Single Judge ought not to have entertained the writ petition in the year 2012, challenging the order of termination passed on 16-12-1996, on the ground of delay and laches alone. At this stage, it is required to be noted that even despite the fact that it was specifically prayed by the respondent in writ petition before the learned Single Judge to direct the authority to decide the appeal preferred by her husband, the learned Single Judge despite the above prayer and the pending appeal, entered into the merits of the case and quashed and set aside the order of termination dated 16-12-1996.

8. The submission on behalf of the respondent is that the termination on 16-12-1996 was absolutely illegal and against the principles of natural justice is concerned, once we hold that the writ petition was barred by delay and laches, thereafter the merits are



not required to be considered. As observed hereinabove, the learned Single Judge erred in entertaining the petition in the year 2012 challenging the order of termination passed in the year 1996, on the ground of delay and laches and more particularly when even otherwise if the termination order would not have been passed the deceased employee would have retired on attaining the age of superannuation in the year 1999.

9. In view of the above and for the reasons stated above, the present appeal succeeds. The impugned judgment and order dated 1-3-2019 passed by the Division Bench of the High Court as well as the judgment and order dated 17-1-2017 passed by the learned Single Judge are hereby quashed and set aside. In the facts and circumstances of the case, there shall be no order as to costs.”

In the light of these facts and circumstances of the case, the present petition stands dismissed on the ground of delay and laches.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

