

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.2558 of 2017**

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Sunil Kumar Singh Son of Sri Prabhunath Singh, Resident of Village-  
Bijauli, P.S.- Panapur, District- Saran.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Director General of Police, Old Secretariat, Bihar, Patna.
3. The Superintendent of Police, Bettiah.

... ... Respondent/s

=====

*Constitution of India---Article 226---Selection and Appointment---  
Delay and Latches in filing of Writ Petition---writ petition for  
directing the respondent authorities to appoint the petitioner on the  
post of Constable in District Police Force on the ground of his being  
a successful candidate in all the test and examination conducted in  
pursuance of Advertisement No.01/1998.*

*Findings: advertisement for the post of Constable was published in  
the year 1998 and, upon non-selection, Petitioner filed representation  
in the year 2012 and, thereafter, sent a legal notice in 2014 and  
subsequently, filed the present writ petition in the year 2017---from  
the date of cause of action, petitioner has filed the writ petition only  
after 19 years--- It is not that there is any period of limitation for the  
Courts to exercise their powers under Article 226 nor is it that there  
can never be a case where the Courts cannot interfere in a matter  
after the passage of a certain length of time----But it would be a  
sound and wise exercise of discretion for the Courts to refuse to*

*exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters---- there is exorbitant delay in moving the Court--- writ petition dismissed.*

**(Para- 2, 5)**

*(1975) 1 SCC 152, AIR 2009 SC 264*

**.....Relied Upon.**

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- 1. The State Of Bihar
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... .. Respondent/s

<b>Appearance :</b>	
For the Petitioner/s	: Mr. Awadhesh Kumar Mishra, Advocate Ms. Shivani Mishra, Advocate Ms. Pragati Singh, Advocate Mr. Shashank Shekhar, Advocate
For the State	: Mr. Manoj Kumar (AC to GP-4)

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 20-03-2025

Heard Learned Counsel for the petitioner and  
Learned Counsel for the State.

2. The present writ petition has been filed in the  
nature of writ of mandamus for the following relief/s:-

I. For directing the respondent authorities to  
appoint the petitioner on the post of Constable in District Police  
Force, Bettiah on the ground of his being a successful candidate  
in all the test and examination conducted in pursuance of  
Advertisement No.01/1998.

II. For any other relief or reliefs for which the



petitioner is entitled for.

3. Learned Counsel for the petitioner submits that the petitioner has appeared in the examination process on the post of Constable in District Police Force, Bettiah in pursuant to Advertisement No.01/1998. Counsel submits that the petitioner has participated in the entire process having height of 174 c.m. and chest was also more than the requirement as per the said advertisement. Counsel further submits that petitioner appeared in the physical efficiency test and written test in which he was declared successful. But, despite the fact that petitioner secured a very good position in the physical as well as written examination, he was not appointed, whereas, similarly situated candidates were appointed. Therefore, petitioner filed representation on 19.03.2012 before the Director General of Police, Bihar, Patna (annexed as Annexure-1). Counsel submits that thereafter, petitioner has filed application under Right To Information Act, 2005, but nothing happened. Counsel submits that in the year 2014, petitioner has sent a legal notice to the Director General of Police, Bihar and S.P., Bettiah requesting him to direct the S.P., Bettiah, West Champaran to appoint him on the post of Constable and finally in the year 2017, he has filed the present writ petition.



4. Learned Counsel for the State on the other hand submits that the representation was filed by the petitioner in the year 2012 and the present writ petition has been filed in the year 2017 and the said advertisement is of year 1998. Meaning thereby, about 19 years have been lapsed since the date of advertisement to the date of filing of the present writ petition. In this regard, Counsel relied on a judgment of Hon'ble Supreme Court of India in case of *P.S. Sadasivaswamy Vs. State of Tamil Nadu* reported in *(1975) 1 SCC 152* and submits that in this case, delay of 14 years in filing the writ petition, the writ petition was held not maintainable. Counsel further relied on a judgment in case of *C. Jacob Vs. Director of Geology and Mining & Anr.* reported in *AIR 2009 SC 264* in which the writ was filed after 20 years, and in the meantime, only representations were filed but, Hon'ble Court has refused to entertain the same.

5. After hearing the parties and upon perusal of the documents, it transpires to this Court that advertisement is of the year 1998 as claimed by the petitioner that upon non-selection, he has filed representation in the year 2012. And thereafter, sent a legal notice in 2014 and subsequently, filed the present writ petition in the year 2017. Meaning thereby, from



the date of cause of action, petitioner has filed the writ petition only after 19 years. In the light of the judgment of Hon'ble Supreme Court in case of ***P.S. Sadasivaswamy (supra)***, paragraph no.2 is very much relevant which states as follows:-

*“The main grievance of the appellant is that the second respondent who was junior to him as Assistant Engineer was promoted as Divisional Engineer in 1957 by relaxing the relevant rules regarding the length of service necessary for promotion as Divisional Engineer and that his claim for a similar relaxation was not considered at that time. The learned Judge of the Madras High Court who heard the writ petition was of the view that the relaxation of the rules in favour of the second respondent without considering the appellant's case was arbitrary. In view of the statement on behalf of the Government that such relaxation was given only in the case of overseas scholars, which statement was not controverted, it is not possible to agree with the view of the learned Judge. Be that as it may, if the appellant was aggrieved by it he should have approached the Court even in the year 1957, after the two representations made*



*by him had failed to produce any result. One cannot sleep over the matter and come to the Court questioning that relaxation in the year 1971. There is the further fact that even after Respondents 3 and 4 were promoted as Divisional Engineers over the head of the appellant he did not come to the Court questioning it. There was a third opportunity for him to have come to the Court when Respondents 2 to 4 were again promoted as Superintending Engineers over the head of the appellant. After fourteen long years because of the tempting prospect of the Chief Engineership he has come to the Court. In effect he wants to unscramble a scrambled egg. It is very difficult for the Government to consider whether any relaxation of the rules should have been made in favour of the appellant in the year 1957. The conditions that were prevalent in 1957, cannot be reproduced now. In any case as the Government had decided as a matter of policy, as they were entitled to do, not to relax the rules in favour of any except overseas scholars it will be wholly pointless to direct them to consider the appellant's case as if nothing had happened after 1957. Not only*



*Respondent 2 but also Respondents 3 and 4 who were the appellant's juniors became Divisional Engineers in 1957, apparently on the ground that their merits deserved their promotion over the head of the appellant. He did not question it. Nor did he question the promotion of his juniors as Superintending Engineers over his head. He could have come to the Court on every one of these three occasions. A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner's petition*





*should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work. We consider that the High Court was right in dismissing the appellant's petition as well as the appeal.”*

As well as in case of **C. Jacob (supra)**, where petitioner reached after 20 years from the date of cause of action, the Hon’ble Court has refused to entertain the same due to delay and latches.

6. Here in the present case, this Court finds that there is exorbitant delay in moving the Court. Hence, this writ petition is hereby dismissed.

**(Dr. Anshuman, J)**

Divyansh/-

AFR/NAFR	AFR
CAV DATE	NA
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