

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19733 of 2013

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Harishchandra Singh Son Of Sri Jhamam Singh Resident Of Village
Mangalpur, P.S. Ramgarhwa, District East Champaran Petitioner/s
Versus

1. The High Court Of Judicature At Patna Its Registrar Establishment and Ors
2. The District And Sessions Judge, East Champaran, Motihari
3. The Registrar, East Champaran, Motihari
4. The Accountant General, Bihar ,Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Umesh Chandra Verma, Adv
		Mr. Satya Prakash Sinha, Adv
For the High Court	;	Mr. Sanjeev Kumar, Adv
For the Respondent/s	:	Mr. Binodanand Mishra
For AG. Bihar	;	Mr. Raj Nandan Prasad, Adv
		Mr. Vishes Kumar Singh, Adv

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR

ORAL JUDGMENT

Date : 30-03-2026

Heard the learned counsel for the petitioner, the
learned counsel appearing on behalf of the Patna High Court
and the learned counsel on behalf of the Accountant General.

2. At the outset, the learned counsel for the
respondent submits that the writ petition itself is not
maintainable in view of the fact that the petitioner has not
impleaded the State of Bihar as a party respondent. Although the
relief is to be granted by the State of Bihar.

3. The present writ petition has been filed for the
following relief:-

*“(i) For issuance of writ in the nature of
mandamus directing and commanding the
respondent authorities to grant second*



time bound promotion w.e.f. 1990 and accordingly pay all the monetary benefits to the petitioner.

(ii) For further direction to the respondent authorities to re-conclude the arrears w.e.f. 1990 according to the second time bound promotion and accordingly re-fixed the pension of the petitioner and pay the arrears with interest as the similarly situated other employees have already been paid giving notional time bound promotion w.e.f. 1990.

(iii) And for any other relief/reliefs for which the petitioner is found to be entitled in the eye of law.”

4. The brief facts giving rise to the present writ petition are that the petitioner was appointed as a typist on 06.06.1974 and ultimately after completion of the date of superannuation retired from services on 30.04.2000. Further from letter dated 30.09.1978 issued under the signature of the Secretary, Law Department, the employees who were appointed on the post of typist in the District Judiciary were directed to be treated as Government of employees for all practical purposes and the service condition of the employee of the State Government will be applicable for them. Vide Letter No. 1073 dated 2.03.1990 issued under the signature of the Joint



Secretary, Law and Justice Department, Government of Bihar, Patna addressed to the Districts and Session Judge, Begusarai, it was informed that time bound promotion will be applicable to the typist from the date of their respective appointments in view of the Sankalp No. 10770 dated 30.12.1981 of the State Government. The petitioner was given first time bound promotion w.e.f. 01.04.1981 and he was entitled for the second time bound promotion dated 15.06.1991. Vide Letter No. 404A dated 27.02.2006 issued under the signature of the District and Session Judge, East Champaran, Muzaffarpur, addressed to the Secretary to the Government, Finance Department, Government of Bihar, Patna it was informed that the petitioner was granted first time bound promotion w.e.f. 01.04.1981 and in view of the Circular of the State Government contained in Sankalp No. 10770 dated 30.12.1981 is entitled for second time bound promotion w.e.f. 15.06.1990.

Submissions On Behalf Of the Petitioner

5. The learned counsel for the petitioner submits that similarly situated employee filed a writ petition bearing **C.W.J.C. No. 7451 of 1999 (Yamuna Prasad Verma Vs. State of Bihar and Ors.)**, and the said writ petition was disposed of vide order dated 08.10.2004 passed by a learned Co-ordinate



Bench of this Court with a direction to the petitioner to file a detailed representation before the authorities concerned for redressal of his grievance. Subsequently, the said Yamuna Prasad Verma has been given the benefits of second time bound promotion vide order dated 28.01.2005, therefore, the petitioner is also entitled for the same relief.

Submission On Behalf of the Respondent.

6. Per contra, the learned counsel appearing on behalf of the Patna High Court Submits that the petitioner was appointed in 1965 as a daily wage employee and he was declared to be government employee vide Memo No. 6476J dated 30.09.1978 issued under the signature of the Secretary, Law Department, Government of Bihar, Patna. He was granted first time promotion after completion of ten years of service. The petitioner superannuated from services on 30.04.2000, therefore, he did not complete 25 years of service prior to his date of retirement, therefore he was not given the benefits of second time bound promotion.

Consideration

7. Having heard the learned counsel for the parties and after going through the materials available on record, this Court finds that the petitioner superannuated from service on



30.04.2000 and he was satisfied with whatever was granted to him at the time of retirement and he did not raise any objection before the authorities concerned and not even a single document has been brought on record, that the petitioner either during his service period or even after his retirement approached the authorities concerned by ventilating his grievances. The so called similarly situated employee was granted the benefit in 2005, the petitioner did not wake from his slumber and all of a sudden, in 2013, he filed the writ petition for grant of similar relief to him. The law in this regard is very much clear that the person, who is a fence sitter cannot be granted similar benefit. Further, the petitioner was not vigilant in ventilating his grievance, either during his service period or even after his retirement, therefore, he has waived his right to be considered for the similar relief.

8. 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 passed in *C.W.J.C. No. 1063 of 2024, (Chandra Madhav Singh Vs. State of Bihar and Ors.)*, wherein the learned 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. The Hon'ble Supreme Court of India in the case of **S.S. Balu and Anr Vs. State of Kerala and Others** reported in 2009 (2) SCC 479 in paragraph no. 17 has held as follows:-



“17. It is also well-settled principle of law that “delay defeats equity”. The Government Order was issued on 15-1-2002. The appellants did not file any writ application questioning the legality and validity thereof. Only after the writ petitions filed by others were allowed and the State of Kerala preferred an appeal thereagainst, they impleaded themselves as party-respondents. It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment. It is, thus, not possible for us to issue any direction to the State of Kerala or the Commission to appoint the appellants at this stage. In NDMC v. Pan Singh [(2007) 9 SCC 278 : (2007) 2 SCC (L&S) 398] this Court held: (SCC p. 283, para 16)

“16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not



implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction.”

12. Accordingly, I find no merit in the writ petition and the same is dismissed.

13. Pending application, if any, shall also be stands disposed of.

(Ritesh Kumar, J)

krishnakant/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.03.2026
Transmission Date	NA

