

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.762 of 2025

In
Civil Writ Jurisdiction Case No.9626 of 2025

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Raj Kumar Jha, Son of Late Krishnadev Jha, Resident of Village-Phulkahi,
P.S.-Raiyam, District-Darbhanga.

... .. Appellant

-Versus-

1. The State of Bihar through the Principal Secretary, Water Resources Department, Sinchai Bhawan, Patna.
2. Additional Chief Secretary, Department of Finance, Government of Bihar, Main Secretariat, Patna.
3. Chief Engineer, Water Resources Department, Government of Bihar, Valmiki Nagar, West Champaran (Bihar).
4. Superintending Engineer, Head Works Circle, Water Resources Department, Government of Bihar, Valmiki Nagar, West Champaran, Bettiah.
5. Executive Engineer, Head Works Division, Water Resources Department, Government of Bihar, Valmiki Nagar, West Champaran, Bettiah.

... .. Respondents

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Appearance :

For the Appellant/s : Mr. Braj Kishore Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar,
Additional Advocate General (4)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-04-2026

This L.P.A has been filed challenging the order dated



24.06.2025 passed by the learned Single Judge in C.W.J.C No. 9626 of 2025 disposing of the writ petition and giving liberty to the petitioner to file fresh representation before the respondent no. 3 Chief Engineer, Water Resource Department, Government of Bihar, within a period of 30 days raising all the grievances which would be considered and disposed of by passing a reasoned and speaking order, strictly in accordance with law and in the light of Finance Department Resolution No. 5547 dated 03.07.2019 within a period of 90 days from the date of receipt/production of the copy of the order along with the representation.

It is stated by the learned counsel for the appellant that in pursuance of the impugned order, no representation was filed by the appellant before the respondent no. 3, but the appellant has preferred to challenge the impugned order in the present L.P.A.

2. The writ petition was filed seeking for a prayer to set aside the order contained in Memo No. 187 dated 17.01.2013 issued by the respondent no. 3 in refusing to regularize the services of the petitioner and also for a further direction to extend the benefit of regularization to the petitioner like similarly situated work charge employees and/or even junior to



the petitioner as work charge employees. The petitioner has also challenged the order contained in memo no. 3953 dated 22.12.2023 issued under the signature of respondent no. 3 in rejecting his claim for regularization *inter alia* with other reliefs.

It is the case of the petitioner that he was appointed as Work Supervisor Grade II in the work charge establishment of Electrical-cum-Mechanical Division, Valmiki Nagar of Water resources Department on 20.12.1973 and continued to discharge his duty till his retirement w.e.f. 30.09.2012. After five years of completion of service, the petitioner proceeded on leave on account of illness with due sanction as per leave rules contained in the Bihar Service Code, joined his service and since he had not recovered fully from his illness, he again proceeded on leave and then he reported for joining on 09.05.2004.

It is the further case of the petitioner that State Government by its resolution no. 6394(2) dated 23.10.1987 put a blanket ban on any fresh appointment in the work charge establishment and decided to regularize the services of those work charge employees who had completed at least 5 years of continuous service till 21.10.1984 by taking them in the regular establishment and making them entitled to pension and other retiral benefits.



It is the further case of the petitioner that the respondent no. 5, Executive Engineer forwarded the case of the petitioner for regularization on 23.08.2007. The petitioner submitted representations in the year 2012 ventilating his grievances before the concerned authorities with a prayer to regularize his service.

It is further case of the petitioner that earlier he approached this Court in C.W.J.C. No. 16099 of 2012 for a direction to the respondent authorities to regularize his service and to grant him all consequential benefits in the light of observations made by the Division Bench of this Court in the case of **Koshi Project Workers' Association -Vrs.- State of Bihar reported in 2007 (1) PLJR 358** which was disposed of on 03.10.2012 directing the authorities to consider his case without making delay as he had already been superannuated.

The petitioner communicated the order of this Court to the authorities with his representation but since no action was taken, he filed the contempt petition which was dismissed on 15.05.2013 as in the meantime the authorities refused to regularize his service as per order contained in memo no. 187 dated 17.01.2013.



It is the further case of the petitioner that he approached this Court once again by filing C.W.J.C. No. 130 of 2014 challenging the aforesaid order dated 17.01.2013 by which his regularization was turned down, which was dismissed on 02.02.2015 with an observation that the contention advanced on behalf of the petitioner that decision in **Koshi Project Workers' Association (supra)** had not been considered in his case by the authorities is a misnomer. The petitioner challenged the order passed in C.W.J.C. No. 130 of 2014 before this Court in L.P.A. No. 969 of 2015 which was disposed of along with a batch of L.P.As on 06.03.2019 and the order of the learned Single Judge was set aside. The authorities were directed to consider the claim of the petitioner keeping in view the observation of the Full Bench of this Court in the case of **Mobina Khatoon -Vrs.- State of Bihar and others reported in 2019 (2) BLJ 9** made in paragraph 70.

In compliance of the order dated 06.03.2019 passed in L.P.A. No. 969 of 2015, the case of the petitioner was considered and fresh order was passed vide memo no. 3953 dated 22.12.2023 in rejecting the claim of the petitioner for regularization and consequential service benefits.



It is the case of the petitioner that matter relating to the sanction of leave and regularization of his continuous period of service as work charge employee was forwarded to the Chief Engineer and the Chief Engineer directed the Superintending Engineer to take steps regarding sanctioning of leave. It is his further case that the sanction of the leave and regularization of service in the work charge establishment was duly entered in his service book and his service was never terminated nor any disciplinary proceeding was ever initiated against him for the so-called unauthorized absence and the petitioner continued to discharge his duties as Work Supervisor in the work charge establishment in the office of Executive Engineer till his retirement on 30.09.2012. It is the further case of the petitioner that though the respondents were supposed to come out with the order giving benefit of regular service to the petitioner but the same was not done and similarly situated work charge employees who were engaged much later after the petitioner in the work charge establishment were provided regularization of service and thus the petitioner has been subjected to discrimination and was deprived of the benefit of regularization till the date of his retirement.



3. The respondent no. 1 to 5 filed the counter affidavit in the L.P.A. in which it is stated that the writ petition should not be entertained as it was filed after a long delay for regularization of service i.e. 13 years after his retirement and passing of the order. It is further stated that the writ petition is not maintainable as it relates to quashing of Memo No. 187 dated 17.01.2013 issued by the Executive Engineer by which the regularization of the petitioner was rejected and the very same order was also challenged by the petitioner before this Court in C.W.J.C No. 130 of 2014 and the same was dismissed vide order 02.02.2015 and though the petitioner preferred L.P.A No. 969 of 2015 before the Division bench of this Court, the Division Bench also did not interfere with it and only directed the department of the Executive Engineer to consider the case of the petitioner in terms of the judgment passed in the case of **Mobina Khatoon** (supra) case. It is further stated in the counter affidavit that in view of the order passed not only by the learned Single Bench but also by the Division Bench of this Court, since the Memo No. 187 dated 17.01.2013 had attained finality, the writ petition is barred by principles of *res judicata*. It is further stated in the counter affidavit that after being appointed in the post of work Supervisor Grade-II in the work charge establishment on



20.12.1973, the petitioner never worked continuously in the establishment rather he was regularly remaining absent from his duties on his own and was superannuated on 30.09.2012. It is stated that the total period of absence of the petitioner during his service was 4457 days i.e. 12 years and 211 days and that the concerned Executive Engineer had wrongly sanctioned the leave of the petitioner for such a long period as he had no jurisdiction to sanction such leave for such a period, inasmuch as, Bihar Service Code provides that the Executive Engineer can sanction the leave only for a maximum period of four months. It is the further stand taken in the counter affidavit that the prayer for regularization of the petitioner was rejected by the concerned Executive Engineer on the ground that the petitioner had not worked in the work charge establishment continuously for a period of five years, which is required for regularization and therefore, the prayer for regularization as well as grant of pensionary benefit cannot be allowed. It is the further highlighted in the counter affidavit that while dismissing the writ petition filed by the petitioner vide order dated 02.02.2012, the learned Single Judge was pleased to observe that the petitioner failed to fulfill the requirements of regularization and when the L.P.A was filed before the Division Bench, the



Division Bench simply disposed of the matter and directed the concerned authority to consider the case of the petitioner in terms of the Full Bench judgment of this Court in the case of **Mobina Khatoon** (supra). In the light of the judgment of the Full Bench, a Screening Committee was constituted under the Chairmanship of the Secretary, Water Resources Department, Government of Bihar, Patna, in which the grievance of the petitioner was also looked into and the Screening Committee after considering the materials available on record, rejected the claim of the petitioner. The Screening Committee found that the claim of the petitioner is not tenable as he had not worked continuously for 10 years in the work charge establishment. The Screening Committee found that the petitioner was continuously remaining absent from 26.07.1978 to 09.05.2024, without permission of the competent authority and the Screening Committee also found that the concerned Engineer who sanctioned the leave of the petitioner can only sanction the leave of Class-III and Class-IV employees and that too for a maximum period of four months and therefore, the sanction of leave was illegal and benefit of regularization could not be granted to the petitioner. The Screening Committee further found that the Executive Engineer committed misconduct and



dereliction of duty and accordingly, departmental proceeding was recommended against him. It is further stated in the counter affidavit that the petitioner was not a regular employee despite the fact the concerned Executive Engineer sanctioned the leave of the petitioner for 4457 days, which is illegal. It is the further case of the respondents that in view of cancellation of the order of grant of leave, since the petitioner could not be regularized in service, his case was rightly rejected by the Screening Committee.

4. When the matter was taken up before the learned Single Judge on 24.06.2025, submission was made on behalf of the petitioner that the petitioner was appointed on 20.12.1973 under the work charge establishment and he was superannuated on 30.09.2012, however, the learned Counsel for the State vehemently opposed the prayer of the petitioner for regularization and submitted that vide Memo No. 187 dated 17.01.2013, the claim for regularization of the petitioner was rejected along with other consequential relief and there is inordinate delay on the part of the petitioner in approaching this Court.

5. The learned Single Judge in the impugned order dated 24.06.2025 has been pleased to observe as follows:-



“5. Prima facie, it appears to this Court that the petitioner was appointed on 20.12.1973 and retired on 30.09.2012. However, he has approached this Court for regularization after a lapse of more than 13 years from the date of retirement. In view of such delay, this Court is not inclined to grant any relief at this stage. It is noted that the only ground urged in support of the writ petition is the order dated 23.04.2024 passed by a Division Bench of this Court in MJC No. 2397 of 2023, arising out of L.P.A. No. 969 of 2015, as contained in Annexure-19. It further appears that the petitioner, if at all entitled, could claim relief only under the provisions of the Finance Department Resolution No. 5547 dated 03.07.2019.

6. In view of the above, the writ petition stands disposed off with liberty to the petitioner to file a fresh representation before respondent no. 3, namely, the Chief Engineer, Water Resources Department, Government of Bihar, within a period of 30 days from today, raising all the grievances as mentioned in the present writ petition. Upon receipt of such representation, respondent no. 3 shall consider and dispose of the same by passing a reasoned and speaking order, strictly in accordance with law and in the light of the Finance Department Resolution No. 5547 dated 03.07.2019, within a period of 90 days from the date of receipt/production of a copy of this order along with the representation.”

6. The learned counsel for the appellant challenged the order of the learned Single Judge mainly on the ground that the petitioner was continuously pursuing the legal remedies and in view of his length of service, the authority concerned was not justified in denying him the benefit of regularization and he also deserves to be allowed full pension and other pensionary



benefits. It is further argued that the petitioner had retired as work charge employee after completion of much more than 10 years of continuous qualifying satisfactory service as he was not subjected to any disciplinary proceeding nor any oral explanation for any lapse on his part was sought for.

7. Learned Senior counsel appearing for the State supported the impugned order and placed different paragraphs of the counter affidavit and contended that in view of the conduct of the appellant in taking unauthorized leave on different times which runs to more than 12 years, since similar relief prayed for earlier by the petitioner was turned down by this Court and the authorities also considered the claim of the appellant in the light of the judgment of the Full Bench of this Court in the case of **Mobina Khatoun** (supra) as well as notification contained in Memo No. 5547 dated 03.07.2019 issued by Finance Department, Govt. of Bihar, Patna and it was held that the appellant had not worked continuously in the work charge establishment for 10 years, therefore his case was rightly rejected. It is further argued that the claim of the appellant is totally misconceived.

8. Law is well settled that mere representation does not extend the period of limitation and the aggrieved person has to



approach the Court expeditiously and within a reasonable time. If it is found that the writ petitioner is guilty of delay and laches, the High Court would be fully justified to dismiss the writ petition at the threshold. Equity aids the vigilant, not the indolent. Courts of equity grant relief to only those who actively protect their rights, not those who sleep on them. It demands prompt action to prevent injustice.

In the case of ***P.S. Sadashivaswamy -Vrs.- State of Tamil Nadu*** reported in (1975) 1 Supreme Court Cases 152, the Hon'ble Supreme Court has been pleased to observe that in a service matter, an aggrieved party should approach the Court at least within six months or at the most a year of the arising of the cause of action, and it would be sound and wise exercise of discretion for the Court to refuse the exercise the extraordinary power under Article 226 of the Constitution of India and in case the petitioner does not approach it expeditiously for relief, such petition should be dismissed in *limine* as entertaining such petition is a wastage of time of the Court and it would impede the work of the Court in considering the legitimate grievances.

It is the settled law 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



scrutinize whether the belated approach should be entertained or not. Inordinate delay would invite disaster for the litigant who knocks at the doors of the Court.

Remaining innocuously oblivious to the delay does not foster the cause of justice, on the contrary it brings injustice and it is likely to affect others. A Court is not expected to give indulgence to the indolent persons who compete with *Kumbhkarana* and the delay does not deserve any indulgence and on that ground alone, the writ Court can throw the petition overboard at the very threshold.

9. Adverting to the contentions raised by the learned counsel for the respective parties, and going through the pleadings in the writ petition, the counter affidavit, we find that the appellant had already been superannuated from service since 30.09.2012, and he is claiming regularization of service after 13 years from the date of his retirement. Even though he earlier approached this Court for similar relief challenging the self-same memo no. 187 dated 27.01.2013, but the same was not granted to him by the learned Single Judge and learned Division Bench in the L.P.A directed the respondent no. 3 to consider the case of the petitioner in the light of observation made in the case of **Mobina Khatoon** (supra). Thereafter, the case of the



petitioner was considered and rejected on valid grounds. Moreover, in spite of the delay, the learned Single judge has been pleased to give liberty to the petitioner to file fresh representation before the respondent no. 3, Chief Engineer, Water Resources Department within a stipulated period, but the same has also not been made by the petitioner and the order has been challenged in the present L.P.A.

We are of the humble view that in view of the conduct of the appellant and the delayed approach and moreover, the stand taken by the State, regarding his unauthorized absence for more than 12 years at different times, which is stated to have been illegally granted by the Executive Engineer and the fact that similar relief was not earlier entertained by this Court, it cannot be said that there is any perversity, or palpable unreasonableness in the impugned order passed by the learned Single Judge. This Court's interference in the Letters Patent Appeal is within a narrow compass and it is a corrective jurisdiction, if there is any error.

10. After going through the impugned order, we do not find any such perversity, illegality or unreasonableness or inconsistency with any particular position of law and therefore, we are not inclined to interfere with the same.



11. Accordingly, the L.P.A stands dismissed.
12. Pending I.A., if any, stands disposed of.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

ranjan/-

AFR/NAFR	AFR
CAV DATE	NA
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