

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14923 of 2016

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1. Shashikant Singh Son of Ganesh Prasad Singh resident of village and P.O. Sahtha, P.S. Bhagwanpur, District Vaishali (Bihar)
 2. Dibdeo Baitha Sonof Damodar Baitha resident of village - Parsauni Devajit, P.O. and P.S. Mehasi, District East Champaran (Bihar)
 3. Chandrakishore Singh Son of Late Shiv Chandra Singh resident of village and P.O. Kishunpur Madhuban, P.S. Kurhni, District Muzaffarpur (Bihar)
 4. Dharmendra Kumar Rai Son of Ram Ashish Rai resident of village - Chand Chore, P.S. Ujiarpur, District Samastipur
 5. Ramu Paswan Son of Kamaldeo Paswan Resident of village - Kharauna Dih, P.S. Kurhni, District - Muzaffarpur (Bihar)
 6. Mukesh Mahto Son of Sri Mahrachan Mahto resident of village - Madhuban, P.S. Karja, District Muzaffarpur (Bihar)
 7. Binod Mahto Son of Mahrachan Mahto resident of village - Madhuban, P.S. Karja, District Muzaffarpur (Bihar)
 8. Suresh Sah Son of Late Kusheshwar Sah resident of village - Silout, P.S. Maniyari, District Muzaffarpur (Bihar)
 9. Umesh Mahto Sonof Bhola Mahto resident of village - Pakri Pakohi, P.S. Karja, District Muzaffarpur (Bihar)
 10. Dipu Sah Son of Raghunath Sah resident of village - Silout, P.S. Maniyari, District Muzaffarpur (Bihar)
 11. Surendra Giri Son of Sri Janeshwar Giri resident of village - Rajua Barbari, P.S. Mehshi, District East Champaran (Bihar)
 12. Ramesh Sah Son of Bindeshwar Sah resident of Kishanpur Chit, P.S. Maniyani, District Muzaffarpur (Bihar)
 13. Kuldeep Mahto Son of Sri Bindeshwar Mahto resident of village - Jithan Khurd, P.S. Karja, District Muzaffarpur (Bihar)
 14. Uma Shankar Singh Son of Late Sakal Singh resident of village - Bishunpur, Madhuban, P.S. Kurhni, District Muzaffarpur
 15. Putul Mahto Son of Sri Gona Mahto resident of village - Pakari, Pakohi, P.S. Karja, District Muzaffarpur (Bihar)
 16. Pramod Bhagat Son of Late Ram Chandra Bhagat resident of village - Parsauni, Devajit, P.S. Mehshi, District East Champaran (Bihar)
 17. Shiv Shankar Giri Son of Sri Jaleshwar Giri resident of village - Rajua Barbari, P.S. Mehshi, District East Champaran (Bihar)
 18. Rakesh Sah Son of Late Kusheshwar Sah resident of village - Silout, P.S. Maniyari, District Muzaffarpur (Bihar)

.... Petitioner/s

Versus

1. The Union of India, through General Manager, Central Railway, Hazipur
2. The Chairman, Railway Board, Ministry of Railway Rail Bhawan, New Delhi 110001
3. The Assistant Commercial Manager, Sonapur
4. Assistant Labour Commissioner (Central) Maurya Lok Complex, A - Block, IInd Floor Room No. 6/16 Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sandeep Kumar, Adv.
Mr. Ajit Kumar, Adv.

For the Respondent/s : Mr. Naresh Dixit, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 21-08-2017

Heard Mr. Sandeep Kumar, learned counsel for the petitioners and Mr. Naresh Dikshit, learned counsel for the East Central Railway.

2. In the present writ petition, the petitioners have prayed for issuance of a direction to the respondents to consider the case of the petitioners for regularization of their service as regular Group-D employee in the light of the judgment passed in *A. I. Railway Parcel & Goods vs. Union of India and Ors. [(2003) 11 SCC 590]* and the order dated 18.04.2011 passed in writ petition (Civil) No. 433 of 1998.

3. It has been contended by Mr. Sandeep Kumar, learned counsel for the petitioners that the petitioners are parcel porters and have been working as contract parcel porters at Muzaffarpur Railway Station since last 25 to 30 years. He has submitted that instead of absorbing them as regular employees of the railway, they have been asked to work through the contractors. They have also been denied the wages which have been paid to Group D employees working in railway, which amounts to unfair trade practice. He has submitted



that there are more than 10 thousand vacancies of Group D employees in the railway where all the petitioners can be absorbed, but contrary to the Supreme Court verdict in the matter of ***A. I. Railway Parcel & Goods vs. Union of India*** (Supra), the claim of the petitioners for being absorbed in Group-D service has been ignored. He has submitted that similarly circumstanced 16 persons, who were working as parcel porters at Muzaffarpur Railway Station, have been absorbed by the railways as Group D employees and the petitioners being similarly situated to those employees cannot be left. He has submitted that the Assistant Commercial Manager, Sonapur has rejected the claim of the petitioners for absorption dated 18.07.2013 on the ground that they are not covered under the judgment dated 15.02.2013 passed by the Supreme Court in I.A. Nos. 1-2 of 2012, I.A. Nos. 29-30 of 2011 and I.A. Nos. 33, 34, 36 and 37 in Writ Petition (Civil) No. 433 of 1998. He has contended that the aforesaid order is illegal, arbitrary, unjust and unsustainable in law.

4. On the other hand, learned counsel for the respondents has submitted that the plea made by the petitioners that they were asked by the railway administration to work through the contractor is completely false and baseless as they were utilized directly by the contractor and they were responsible for the payment to them. He has submitted that Clause 41 of the agreement entered between the



Railways and the Parcel Handling Contractor clearly stipulates that the award of the contract is purely contractual and no facilities, viz. absorption in the railway service, regularization of service, bonus, Railway pass facilities etc. shall accrue to the handling contractor. He has further contended that all the vacancies as assessed as per the direction of the Supreme Court of India in *A. I. Railway Parcel & Goods vs. Union of India* (Supra) were filled up long back and at present, there is no vacancy against the post of parcel porters in question.

5. He has submitted that parcel porters absorbed in Railway service, as contended by the learned counsel for the petitioners, were those who were petitioners in W.P. (C) No. 433 of 1998 and covered by the judgment delivered by the Supreme Court in the matter of *A. I. Railway Parcel & Goods vs. Union of India* (Supra). According to him, the petitioners in the instant writ petition not being applicants in W. P. (C) No. 433 of 1998 have no right to be considered for absorption as they are not covered by the judgment of the Supreme Court in the aforesaid writ petition. He has contended that the claims made by these petitioners are neither supported by facts nor the circumstances. According to him, parcel handling work at Muzaffarpur station falling under Sonapur Division is being handled departmentally and no parcel porter is being utilized for the purpose.



6. I have heard learned counsel for the parties and perused the record of the case.

7. I find force in the submission made by the learned counsel for the respondents. The raising of issue of payment of wages in parity with Group D employees cannot be accepted in view of the fact that the petitioners are not similarly placed with Group D employees. The petitioners have not been barred from participating in selection process of Group D employees as per rules and regulations of public employment whenever it is published by the Railway Administration.

8. So far as the directions issued by the Supreme Court vide its order dated 17.11.2009 in Writ Petition No. 640 of 2007 is concerned, the petitioners have failed to establish that they were covered by the said judgment. They cannot stake claims for any benefits on the basis of the said judgment when they were themselves not the petitioners in that case. Moreover, there is no reason to doubt the contention of the respondents that all the vacancies as per direction of the Supreme Court were filled up long back and at present there is no vacancy against the post of Parcel Porters as a result of diminished work load in parcel handling work due to leasing work in most of the trains. The petitioners have also failed to furnish any document in support of the claim that they were covered by



various judgments of the Supreme Court on the issue.

9. In that view of the matter, the writ petition, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	23-08-2017
Transmission Date	

