

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19377 of 2017

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1. Vivek Kumar Sinha, son of late Vimal Deo Prasad, resident of Ward No. 7, Phulwariya, P.S. Phulwariya Barauni, District-Begusarai (working as Commissioned vendor, Barauni Junction of East Central Railway).
 2. Sunil Kumar Yadav, son of Bharat Yadav, resident of village –Mutlupur, word No. 16, P.O.+P.S.-Teghra, District-Begusarai.
 3. Mukesh Kumar, son of late Kashinath Mahto, resident of village-Shokahra 1, ward no. 5, P.O. Barauni, P.S. Phulwaria, District-Begusarai.
 4. Subodh Yadav, son of late Ram Jatan Yadav, resident of village+P.O.-Barauni Dewari 1, ward no. 5, P.S. Teghra, District-Begusarai.
 5. Mahesh Prasad, son of late Triloki Prasad, resident of village-10 No. Boring, P.O. Gorakhnath, P.S. Gorakhpur, District-Gorakhpur (Uttar Pradesh).
 6. Prameshwar Sah, son of late Mishri Sah, resident of village-Jahanpur (Ramchandarpur) P.O+P.S. Bachchwara, District-Begusarai.
 7. Chamru Sah, son of late Jugal Sah, resident of village-Phulwaria 1, ward no. 7, P.O. Barauni, P.S. Phulwariya, District-Begusarai.
 8. Shobhit Roy, son of late Dila Roy, resident of village+P.O. Subhaigarh (South Tola), P.S. Sadar Hajipur, District-Vaishali Via Hajipur.
 9. Devanand Das, son of Sri Sadanand, resident of Village-Shokhara 1, Ward No. 2, P.O. Barauni, P.S. Phulwariya, District-Begusarai.
 10. Arun Kumar Poddar, soon of late Sagar Poddar, resident of village-Shokhara 1, ward no. 10, P.O. Barauni, P.S. Phulwariya, District-Begusarai.
 11. Md. Shakil, son of late Md. Majid, resident of village-Shokhara 2, ward no. 10 (Kamalbagh), P.O. Barauni, P.S.-Phulwariya, District-Begusarai.
 12. Banarasi Sah, son of late Govind Sah, resident of village-Shokhara 1, ward no. 2, P.O. barauni, P.S. Phulwariya, District-Begusarai.
 13. Shyama Lal Sah, son of late Lakhan Sah, resident of village-Phulwariya 2, ward No. 11, P.O. Barauni, P.S. Phulwariya, District-Begusarai.
 14. Rajan Kumar, son of late Haribansh Roy, resident of village-Sonepur, P.O. Sonepur, P.S. Sonepur, District-Chapra.
 15. Md. Idris Kamal son of late Md. Kabiruddin, resident of village-Phulwariya 3, ward No. 5, P.O. Barauni, P.S. Phulwariya, District-Begusarai.
 16. Saroj Kumar Roy, son of late Ram Rasik Roy resident of village-Phulwariya 1,



ward no. 5, P.O. Barauni, P.S. Phulwariya, District-Begusarai.

.... Petitioner/s

Versus

1. The Railway Board, Ministry of Railway through the Director Catering, New Delhi.
2. The General Manager, East Central Railway, Hajipur, Vaishali (Bihar)
3. The Divisional Railway Manager, Sonepur Division of East Central Railway at Sonepur, Saran, Bihar.
4. The Divisional Manager, Personnel, Sonepur Division of East Central Railway at Sonepur, Saran, Bihar.
5. The Divisional Manager (Commercial) Sonepur Railway Division at Sonepur, Saran, Bihar.
6. Mantun Kumar Roy son of late Harindra Roy resident of village and P.O. Subhaigarh (South Tola) P.S. Sadar Hajipur District-Vaishali Via-Hajipur.
7. Kuldip Sah son of late Bishnu Sah resident of village-Phulwariya 2, ward no. 3 P.O. Barauni, P.S. Phulwariya, District-Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Uday Kumar, Adv.

For the Respondent/s : Mr. Amresh Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 15-01-2018

Since a right for consideration of absorption on a Group-D post in the railways was part of a public announcement made by the railways, as a matter of policy, the non-consideration of the claim of these petitioners by the railways is an unacceptable position.

Since their cases for absorption is part of a public policy, therefore, the same will not hit by the principles laid down by the Hon'ble Apex Court in **Secretary, State of Karnataka & Ors. Vs.**



Uma Devi & Ors. reported in A.I.R. 2006 S.C. 1806.

The Tribunal obviously has committed serious error in losing sight that the right of consideration of these petitioners do not flow from their continued working as a daily wager but as a welfare measure the railways themselves announced that all such vendors, commission agents and bearers are required to be screened for absorption on Group-D post.

The impugned order dated 25.09.2017 passed in O.A. No. 275 of 2014 is set aside. The Court directs the respondent-authorities of the railways to take a decision on the claim of these petitioners within a period of three months from the date of production/communication of this order.

Writ is allowed in terms of the above.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Devendra/Arjun

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.01.2018
Transmission Date	NA

