

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1774 of 2016

IN

Civil Writ Jurisdiction Case No. 7600 of 2014

- =====
1. Anant Kumar, Son of Suresh Prasad, Resident of Kamanpur, P.O. Barara, P.S. Noorsarai, District- Nalanda, presently working as Data Entry Operator, District Tuberculosis Centre, Chhapra at Saran.
 2. Anil Kumar, Son of Rajendra Prasad, Resident of Village + Post Balantar Via Bidupur, District- Vaishali, presently working as Data Entry Operator, District Tuberculosis Centre, Madhubani.
 3. Alok Kumar, Son of Thakur Pandey, Resident of Village + P.O. Dhokraha, P.S. Majhowila, District West Champaran, presently working as Data Entry Operator, officer of Deputy Director, Health Services-Cum- State Programme Officer (TB), Bihar, Patna.
 4. Ajay Kumar, C/o Sri Rajeshwar, Resident of North Mandiri New Bank Colony, Near D.H. School, Patna, presently working as Data Entry Operator, District Tuberculosis, Centre, Sheikhpura.
 5. Indra Mohan Diwakar, Son of Haridwar Prasad Roy Resident of Ward No. 15, Nagar Panchayat Sehohar, presently working as Data Entry Operator, District Tuberculosis, Centre, Sheohar.
 6. Surya Narayan Sah Son of Shri Ram Chandra Sah, Resident of Village Baswariya, P.O & P.S. Saharghat, District Madhubani, presently working as Data Entry Operator, District Tuberculosis, Centre, Bettiah at West Champaran.
 7. Rasan Kumar Mishra, Son of Late Satyanarayan Mishra, Resident of Village Darhar (Mishratola), P.O. Laheriasarai, P.S. Bahadurpur, District Darbhanga, presently working as Data Entry Operator, District Tuberculosis, Centre, Sheikhpura.
 8. Pradeep Kumar Shrivastava, Son of Late Lala Sudist Narayan Srivastava, Resident of Mohalla, Laxmipur, Ward No. 17, Madhepura, presently working as Data Entry Operator, District Tuberculosis, Centre, Madhepura.
 9. Shankar Kumar Sharma, Son of Rajendra Sharma, Resident of Village Beldhana, Post Noorsarai, P.S. Chandi District Nalanda, presently working as Data Entry Operator, District Tuberculosis, Centre, Khagaria.
 10. Anuj Kumar Son of Arbind Kumar Mandal, Purani Thakurbari Road, Ward No. 11, P.S. + District- Banka, presently working as Data Entry Operator, District Tuberculosis, Centre, Banka.
 11. Harendra Kumar Mishra, Son of Arjun Mishra Resident of Village + P.O. Khaira, District Jamui, presently working as Data Entry Operator, District Tuberculosis, Centre, Jamui.
 12. Santosh Kumar, Son of Late Ram Prasad Mahto, Resident of Village + P.O. Karkayan, P.S. Ghoswari Via Sarmera, District Patna presently working as Data Entry Operator, District Tuberculosis, Centre, Nalanda.
 13. Ashutosh Kumar, Son of Dr. Raj Kishore Singh, Resident of Road No. 17, Rajiv Nagar, Patna presently working as Data Entry Operator, District Tuberculosis, Centre, Bhagalpur..
 14. Kunal Shrivastava, Son or Ram Narayan Prasad, Resident of Kali Bazar, Ward No. 23, P.S. Araria, presently working as Data Entry Operator, District Tuberculosis, Centre, Araria.
 15. Deepak Kumar, C/o Late Parmanand Prasad, resident of R.M.S. Colony, Main Road, Kankarbagh, Patna, presently working as Data Entry Operator, District Tuberculosis, Centre, Ara at Bhojpur.
 16. Sanjay Kumar Sinha, Son of Late Krishna Kumar Sinha, Resident of Mohalla Power House Road, P.O. & District- Begusarai, presently working as Data



- Entry Operator, District Tuberculosis, Centre, Begusarai.
17. Amarendra Kumar, Son of Ramji Prasad Sharan, Resident of Village Dumri Bazar, P.S. Yogapatti, District- West Champaran, presently working as Data Entry Operator, District Tuberculosis, Centre, East Champaran, Motihari..
 18. Gautam Kumar Lal Das, Son of Late Schidanand Lal Das, Village- Haripatti, P.O. Laheria Sarai, District- Darbhanga, presently working as Data Entry Operator, District Tuberculosis, Centre, Nalanda.
 19. Manoj Kumar, Son of Shri Sarobar Ray, Resident of Village Herudiyara Kali Sthan, P.O. Herudiyara, District Munger, presently working as Data Entry Operator, District Tuberculosis, Centre, Nalanda.
 20. Kanak Lata, C/o Smt, Kumud Sharma, Resident of Koshi Colony, Tambaku Factory, Purnia, presently working as Data Entry Operator, District Tuberculosis, Centre, Kishanganj.
 21. Pankaj Kumar, Son of Navin Vishwakarma, Resident of Village- Magroher, Post Abgilla Chaurasa, District Jamui, presently working as Data Entry Operator, District Tuberculosis, Centre, Lakhisarai.
 22. Anmol Chand Khan, son of Late Hare Krishna Khan, Resident of Village Parari, Via Banganwa, District- Sharsa, presently working as Data Entry Operator, District Tuberculosis, Centre, Katihar.
 23. Shekhar Kumar Shrivastava, Resident of Mohalla Gopalganj, Near Geeta Ashram, Sasaram, District Rohtas, presently working as Data Entry Operator, District Tuberculosis, Centre, Rohtas at Sasaram.
 24. Shiv Balak Baitha, Son of Late Parsan Baitha, Resident of Village & P.O. Manikpur, District- Gopalganj, presently working as Data Entry Operator, District Tuberculosis, Centre, Gopalganj.
 25. Santosh Kumar, Son of Late Hira Lal Prasad, Resident of Village + P.O. Bhabhua, District- Kaimur, presently working as Data Entry Operator, District Tuberculosis, Centre, Kaimur.
 26. Krishna Bali Kumar, son of Late Kashi Lal, Resident of Village- Kolhuara, P.O. Navranga, P.S. Kalyanpur District- Samastipur, presently working as Data Entry Operator, District Tuberculosis, Centre, Samastipur.
 27. Ranjan Sharan, son of Late Mahavir Sharan, Resident of Village- Pamara, P.O. Raghopur Bakhari, Block Dumra, Sitamarhi, presently working as Data Entry Operator, District Tuberculosis, Centre, Sitamarhi.

.... **Appellants/writ petitioners**

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna Secretariat, Patna.
2. The Principal Secretary, Health Department, Govt. of Bihar, New Secretariat, Patna.
3. The Secretary, Health Department, Govt. of Bihar, New Secretariat, Patna.
4. Director-in-Chief, Health Services, Health Department, Govt. of Bihar, New Secretariat, Patna.
5. Deputy Director, Health Services-Cum- State Programme (TB), Bihar, Patna.
6. The Executive Director, State Health Society, Bihar, Patna.
7. The Staff Selection Commission, through its Chairman, Veterinary College, Patna.
8. The Secretary, Staff Selection Commission, Veterinary College, Patna.
9. The Chief Medical Officer-Cum- Member Secretary, District Health Society of all the Districts of State of Bihar.
10. The District Tuberculosis officer of all the Districts of State of Bihar.

.. **Respondent 1st set**

11. Amit Kumar, Son of Late Kanhaiya Lal Shah, Resident of Taranaga, Madhubani, District- Purnea, presently working as Data Entry Operator, District Tuberculosis Centre, Purnea.



12. Ravi Shankar , son of Uday Shankar Prasad, Resident of Mohalla- Arya Path, Jehanabad, presently working as Data Entry Operator, District Tuberculosis Centre, Jehanabad.
13. Kavita Chandra, C/o Dr. Sujeet Manohar, Manohar Farma, Murli Babu Chowk, Rafiganj, Aurangabad, presently working as Data Entry Operator, District Tuberculosis Centre, Aurangabad.
14. Manish Kumar Sharma, Son of Uday Chand Sharma, Resident of Village Ball, P.O. Chainwa, P.S. Rasulpur, District Chhapra at Saran, presently working as Data Entry Operator, District Tuberculosis Centre, Siwan.

..... Respondent 2nd Set

15. The Union of India through the Department of Health and Family Welfare, New Delhi.

.... Respondents

Appearance :

For the Appellants	:	Mr. Mrigank Mauli, Advocate Mr. Ravi Bhardwaj
For the Respondents	:	Mr. S.D. Sanjay, Addl. S.G. Mr. Rajesh Kumar Verma, C.G.C.
For the State	:	Mr. S. Raza Ahmad, AAG-5

CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 13-04-2018

Challenge in the present Letters Patent Appeal is to the order dated 19.08.2016 passed by learned writ court in CWJC No. 7600/2014.

2. By the impugned order, the learned writ court has refused to issue a direction upon the respondent authorities to regularize service of the petitioners who are the Data Entry Operators and were appointed under the scheme of the Central Government on contractual basis.

3. Learned counsel representing the appellants submits that since the date of their appointment the appellants have been continuously discharging their duties in an unblemished manner



for a period from 5 years to 10-12 years, therefore the learned writ court would have gone into the issues and consider the case of the petitioners for an appropriate direction to the respondent State and its authorities. It is submitted that the petitioners are under the control of the State Government and only the financial benefit is being given by the Central Government under a scheme for eradication of Tuberculosis and the work is of a permanent teacher.

4. It is the stand of the respondents that post of Data Entry Operator is a purely temporary post and the petitioners have been engaged under a contract as they have signed a written agreement specifically saying that they will not claim regularization in government service. The appointments are made for 11 months only and are extended with a break of 1-2 days depending upon availability of fund from government of India which in turn get soft loan from global fund. It is submitted that this programme is temporary and no permanent appointment can be made. It is further stated the post has now been abolished from the financial year 2017-18 because no funding will be made in case of new appointment. In those districts where Data Entry Operators are not available or has resigned/terminated, the requirement, if any, is to be made from outsourcing mode.

5. In the aforementioned facts and circumstances the



learned writ court refused to issue the directions as prayed for. The pleadings available on the record would not permit us to take any other view in the matter. If the appellants have taken an engagement by signing a written contract which specifically provides that it is for a certain period and renewable on year to year basis subject to good performance and mutual agreement and further the appellants have given the state respondents to believe that they will not claim regularization, at this stage, they cannot claim any legal right to get a writ of mandamus directing the State respondents to acknowledge them as their employees and to regularize them in service. The stand of the respondents is that from financial year 2017-18 now the post itself have been abolished.

6. We do not find any illegality and infirmity in the impugned order passed by the learned writ court. The Letters Patent Appeal has no merit. It is, accordingly, dismissed.

(Rajendra Menon, CJ.)

Rajeev/-

(Rajeev Ranjan Prasad, J.)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.04.2018
Transmission Date	NA

