

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15952 of 2015

1. Sumesh Prasad Gupta and Ors S/o Late Saroj Prasad Gupta, resident of Surya Sadan near Bahadurpur Gumti, Rajendra Nagar, Patna, P.S.- Kadam Kuan, District- Patna.
2. Basant Kumar Singh S/o Sri Nagina Singh resident of B/56, South to Poddar Bhawan, Yarpur, P.S.- Gardanibagh, District- Patna.
3. Ranjit Prasad, S/o Late Shatrughan Prasad, resident of B/56, Mahabir Nagar, Beur Road, Anishabad, P.S. Beur, District- Patna.
4. Rameshwar Prasad S/o Sri Shiv Kumar Prasad, resident of A/21, Ashok Puri Colony, Khajpura, P.S.- Shastri Nagar, District- Patna.
5. Abhay Kumar S/o Late Bishundhar Ram, resident of Pyasa Vill- Taranpur, P.O.- Lakhanpur, P.S.- Gourichak, Distt- Patna.

... .. Petitioner/s

Versus

1. The Union Of India and Ors
2. The Under Secretary to the Govt. of India, Ministry of Labour and Employment, New Delhi.
3. The Central Provident Fund Commissioner, Employees Provident Fund Organisation, Ministry of Labour,
4. The Regional Provident Fund Commissioner I, Employees Provident Fund Organisation, Ministry of Lab
5. The Additional CPFC HRM, Employees Provident Fund Organisation, Ministry of Labour, Government of
6. The Regional Provident Fund Commissioner, Employees Provident Fund Organisation, Ministry of Labour
7. The Assistant Provident Fund Commissioner Adm., Employees Provident Fund Organisation, Regional Of
8. Sri B. Ram, posted at Employees Provident Fund Organisation, Ministry of Labour, SRO Kutchary Compo
9. Sri P.C. Neogi, posted at Employees Provident Fund Organisation, Ministry of Labour, SRO Kutchary C
10. Sri H.N. Mehta, posted at Employees Provident Fund Organisation, Ministry of Labour, Bihar Regiona
11. Sri I.D. Singh, posted at Employees Provident Fund Organisation, SRO Kutchary Compound, Muzaffarpur
12. Sri C.P. Singh, posted at Employees Provident Fund Organisation, Ministry of Labour, SRO Kutchary C
13. Sri Nand Kishore Prasad, posted at Employees Provident Fund Organisation, Ministry of Labour, Bihar
14. Sri S.B. Sah, posted at Employees Provident Fund Organisation, Ministry of Labour, Bihar Regional O



15. Sri R.P. Sinha, posted at Employees Provident Fund Organisation, Ministry of Labour, Bihar Regional
16. Sri Subhash Chandra, posted at Employees Provident Fund Organisation, Ministry of Labour, Bihar Reg
17. Sri Baidyanath Prasad, posted at Employees Provident Fund Organisation, Ministry of Labour, Bihar R
18. Sri H.N. Lal, posted at Employees Provident Fund Organisation, Ministry of Labour, Bihar Regional O
19. Sri P.Kumar, posted at Employees Provident Fund Organisation, Ministry of Labour, Bihar Regional Of
20. Sri Sunil Kumar Sinha-1, posted at Employees Provident Fund Organisation, Ministry of Labour, Bihar
21. Sri Rakesh Ranjan, posted at Employees Provident Fund Organisation, Ministry of Labour, Bihar Regio
22. Sri N.K. Gupta, posted at Employees Provident Fund Organisation, Ministry of Labour, Bihar Regional
23. Sri G.B. Sahay, posted at Employees Provident Fund Organisation, Ministry of Labour, Bihar Regional
24. Smt. Mitra Jha, posted at Employees Provident Fund Organisation, Ministry of Labour, Bihar Regional
25. Sri A.K. Rahman, posted at Employees Provident Fund Organisation, Ministry of Labour, SRO Kutchary
26. Smt. Bharti Chakravorty, posted at Employees Provident Fund Organisation, Ministry of Labour, Bihar
27. Sri Shivendra Kumar Sinha, posted at Employees Provident Fund Organisation, Ministry of Labour, Bih
28. Sri Lal Babu Prasad, posted at Employees Provident Fund Organisation, Ministry of Labour, SRO Kutch
29. Sri S. Hasan, posted at Employees Provident Fund Organisation, Ministry of Labour, Bihar Regional O
30. Sri Bipin Kumar Sinha, posted at Employees Provident Fund Organisation, Ministry of Labour, Bihar R

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sarbottam Kumar Sarkar, Adv.
For the Respondent/s	:	Mr. Prashant Sinha, Adv, Mr. K.N. Singh, ASG
For the Union of India	:	Mr. Abhay Shanker Jha, CGC

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)



CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 09-09-2020

Heard learned counsel for the parties.

Prayer of the petitioners in this writ application reads as follows:-

(I) For issuance of an appropriate writ, order, direction to quash the order dated 26.09.2014 passed in O.A. No. 473 of 2010/M.A. No. 438 of 12 by Central Administrative Tribunal, Patna Bench, Patna whereby and whereunder the original application was dismissed with observations and M.A. No. 438/12 was disposed of thereafter.

(ii) For issuance of an appropriate writ, order, direction to declare the draft seniority list of UDC dated 27.11.2003 issued by the Asst. Provident Fund Commissioner (Adm.) Patna as well as fresh draft seniority list dated 01.04.2009 issued by Regional Provident Fund Commissioner (Adm.) Bihar, Patna illegal, erroneous and for direction to correct the same in accordance with law.

(iii) For issuance of an appropriate writ, order, direction to declare that any action taken in furtherance of the aforesaid draft seniority list and fixation of seniority and granting promotions to Juniors to higher posts makes the petitioners entitled for such benefit with effect from the date their Juniors have been granted promotion.

(iv) For issuance of an appropriate writ, order, direction granting any other relief or reliefs for which the petitioners are found entitled.

Petitioner no. 1 was promoted on 03.09.1983, to the post of UDC, petitioner no. 2 was promoted on 03.09.1983 to



the post of UDC. Petitioner no. 3 was promoted on 12.09.1983 to the post of UDC, petitioner no. 4 was promoted on 03.09.1983 to the post of UDC and petitioner no. 5 was promoted on 04.12.1985 to the post of UDC.

The post of UDC was renamed as Social Security Assistant w.e.f 03.01.2004, in short SSA and time bound promotion is made on the post of Senior Social Security Assistant and thereafter promotion is granted on the post of Section Supervisor in accordance with law.

Petitioners filed O.A. No. 473/2010 against Office Order No. 122 dated 31.08.2009 passed by Regional Provident Fund Commissioner, Bihar, by which certain Section Supervisor were granted ad-hoc promotion on the post of Enforcement Officer/Account Officer. Petitioners have also challenged order no. 180 dated 19.11.2009 by which final seniority list of Social Security Assistant/Senior Social Security Assistant was published as well as order dated 21.12.2009 issued by Assistant Provident Commissioner, Patna, rejecting the representation of petitioners in which they had claimed for revision of their seniority in UDC cadre.

Claim of petitioners are based upon premise that officials belonging to seniority quota have been shown to be



senior owing to their ad-hoc promotion on the post of UDC while the petitioners passed the departmental examination prior to regular promotion of seniority quota officials.

Genesis of present litigation arises of office order no. 159 dated 27.11.2003 by which a draft seniority list in the cadre of UDC after bifurcation of Jharkhand region from Bihar region was circulated which was finalized vide order no. 180 dated 19.11.2009. UDC cadre is region based cadre and each regional office has its own cadre of UDC. Appointments and promotions in the cadre of UDC are made by Regional Provident Fund Commissioner(RPFC).

On 29.03.1982 a seniority list of UDC of Bihar region as on 01.01.1979 was circulated which was challenged by Sri N.K. Pandey, UDC, on the ground that seniority should be decided on the basis of length of service taking into consideration the ad-hoc service rendered by him which was allowed by the Tribunal in T.A. No. 181/86 and a direction was issued to the department to prepare the gradation list after taking into account the ad-hoc service rendered by N.K. Pandey. Similar type of order was also passed by the Chandigarh Bench of CAT. S.L.P. preferred by the department against order passed by Chandigarh Bench was dismissed by the Supreme Court.



After decision of the Supreme Court, Bihar Regional Office prepared a seniority list of UDC in the year 1987 on the basis of order passed by the CAT and a draft seniority list was published vide office order no. 294 dated 04.08.1988 inviting objections by 15.09.1988 from the concerned officers against which 9 objections were received and after considering those objections another draft seniority list was published vide office order no. 197 dated 15.06.1990 against which also objections were invited and 3 objections were filed and final seniority list was published vide office order no. 371 dated 22.11.1990.

After seniority list of UDC cadre was finalized in Bihar region, Employees Provident Fund Staff (Fixation of Seniority) Regulation 1989 was framed and same was notified in which it was provided that no case relating to seniority of an employee which has already been finally decided shall be re-opened by virtue of any provision contained in these regulations.

The learned Tribunal dismissed the O.A. filed by the petitioners on the ground that draft seniority list of UDC cadre dated 27.11.2003 was published of Bihar Region after bifurcation of Jharkhand region on the basis of final seniority list published in the year 1987 and 1990 after inviting objections



from the employees and after considering their objections in which petitioners also participated and only thereafter final seniority list was published and petitioners were granted same position which they held in the final seniority list of 1987 and 1990 as such they cannot be allowed to challenge the same after 20 years of its publication.

The Apex Court in the case of **Vijay Kumar Kaul and Ors. vs. Union of India (UOI) and Ors** since reported in **2012(4) PLJR 34(SC)** has held as follows:-

“21. From the aforesaid pronouncement of law, it is manifest that a litigant who invokes the jurisdiction of a court for claiming seniority, it is obligatory on his part to come to the court at the earliest or at least within a reasonable span of time. The belated approach is impermissible as in the meantime interest of third parties gets ripened and further interference after enormous delay is likely to usher in a state of anarchy.

22. The acts done during the interregnum are to be kept in mind and should not be lightly brushed aside. It becomes an obligation to take into consideration the balance of justice or injustice in entertaining the petition or declining it on the ground of delay and laches. It is a matter of great significance that at one point of time equity that existed in favour of one melts into total insignificance and paves the path of extinction with the passage of time.”

After hearing learned counsel for the parties and considering the materials available on record and perusing the order passed by the Tribunal, this Court does not find any error or infirmity in the order passed by the Tribunal requiring any



interference by this Court in its writ jurisdiction, accordingly,
writ petition is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.11.2020
Transmission Date	NA

