

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16367 of 2017

1. The Union of India through the General Manager, East Central Railway, Hajipur, District- Vaishali.
2. The General Manager Personnel, East Central Railway, Hajipur, District- Vaishali.
3. The Financial Advisor and Chief Accounts Officer, East Central Railway, Hajipur, District- Vaishali.
4. The Divisional Railway Manager, East Central Railway, Danapur, District- Patna.
5. The Senior Divisional Personnel Officer, East Central Railway, Danapur, District- Patna.
6. The Senior Divisional Engineer Co-ordination, East Central Railway, Danapur, District- Patna.
7. The Senior Divisional Financial Manger, East Central Railway, Danapur, District- Patna.

... .. Petitioner/s

Versus

1. Ramashray, Son of Late Ganauri, Ex Trackman under Senior Section Engineer (P.Way). East Central Railway, Mokama, District- Patna (Bihar).
2. Mathura Son of Late Amir, Ex Trackman Under Senior Section Engineer (P. Way), East Central Railway, Mokama, District- Patna (Bihar).
3. Radhey, son of Late Gorakh Ex Trackman Under Senior Section Engineer (P. Way), East Central Railway, Mokama, District- Patna (Bihar).
4. Jageshwar, son of Late Rup Chand, Ex Trackman Under Senior Section Engineer (P. Way), East Central Railway, Mokama, District- Nawada(Bihar).
5. Sado, son of Jadoo, Ex Trackman Under Senior Section Engineer (P.Way), East Central Railway, Mokama, District- Patna (Bihar).
6. Medani son of Late Tulsi Ex-Helper-I, Ex Trackman Under Senior Section Engineer (P.Way), East Central Railway, Mokama, District- Patna (Bihar).
7. Raghubir, son of Bawan Paswan, Ex Helper Khalasi Ex Trackman Under Senior Section Engineer (P.Way), East Central Railway, Garhara.
8. Smt. Shanta Devi wife of Late Ramdeo, Ex Trackman Under Senior Section Engineer (P.Way), East Central Railway, Mokama (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. D.K. Sinha, Sr. Advocate



For the Respondent/s : & Mr. Amaresh Kumar Sinha, Adv.
: Mr. Munna PD Dixit (M.P. Dixit), Adv.

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

Date : 14-09-2020

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

Heard learned counsel for the petitioners and learned counsel for the Respondents.

Petitioners have prayed for following reliefs:-

1. "For issuance of a writ in the nature of certiorary or any other appropriate writ, order or direction, for quashing the order dated 07.09.2016 passed by the learned Central Administrative Tribunal, Patna Bench, Patna in O.A./050/00643/2016, whereby the Hon'ble Central Administrative Tribunal has been pleased to dispose the original application at the stage of admission itself with a direction to the respondents to verify the facts related to each applicant and extend to them the same benefits as granted to the similarly placed employees by treating 100% service as temporary status and



50% service as casual for qualifying service for pension.

The counsel representing the appellant/railway submits that decision of Hon'ble Apex Court rendered in the case of Union of India Vs. Rakesh Kumar since reported in 2017 (3) PLJR SC 83 makes the direction of the tribunal to count 100% service as temporary status employee and 50% of service as casual employee for qualifying service for grant of pension in the teeth of ratio of the decision.

The Hon'ble Apex Court crystallized the issue in the following manner:-

“55. In view of foregoing discussion, we hold:

(i) the casual worker after obtaining temporary status is entitled to reckon 50% of his services till he is regularized on a regular/temporary post for the purposes of calculation of pension.

(ii) the casual worker before obtaining the temporary status is also entitled to reckon 50% of casual service for purposes of pension.

(iii) those casual workers who are appointed to any post either substantively or in



officiating or in temporary capacity are entitled to reckon the entire period from date of taking charge to such post as per Rule 20 of Rules, 1993.

(iv) It is open to Pension Sanctioning Authority to recommend for relaxation in deserving case to the Railway Board for dispensing with or relaxing requirement of any rule with regard to those casual workers who have been subsequently absorbed against the post and do not fulfill the requirement of existing rule for grant of pension, in deserving cases. On a request made in writing, the Pension Sanctioning Authority shall consider as to whether any particular case deserves to be considered for recommendation for relaxation under Rule 107 of Rules, 1993.”

In view of judgment and order passed by the Apex Court as referred above and followed by this Court in C.W.J.C. No. 4612 of 2017 (Union of India and others Vs. Md. Karar Husain) order dated 24.08.2017 and in C.W.J.C. No. 5111 of 2017 (Union of India and others Vs. Binod Singh) order dated 24.07.2017, the judgment and order of the tribunal is modified to the extent that 50% of service rendered as temporary status employee and 50% of service rendered as casual employee will



be counted for the purpose of qualifying service for grant of pension.

With aforesaid modification, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.10.2020
Transmission Date	NA

