

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8607 of 2021

1. Sonu Kumar S/o Sri Arjun Singh Village- Madhe, P.O.- Ankorha, P.S.- Badem (OP) District- Aurangabad.
2. Sujit Kumar S/o Sri Prabal Singh R/o Vill- Kudwan, P.O.- Ankorha (R.S.), P.S.- Narari Kala Khurd, Dist- Aurangabad.
3. Bhushan Kumar Karn S/o Prabhu Narayan Lal Karn R/o Village and P.O.- Chatra, Dist- Madhubani.
4. Ajay Kumar Soni S/o Sri Nand Kumar Prasad R/o Moh- Srinagar, Thakurbari Road, Near Surya Mandir, P.O., P.S. and Dist- Aurangabad.
5. Kunal Kumar Singh S/o Sri Lalan Kumar Singh R/o Vill- Tamsi, P.O.- Narendra Khap, P.S.- Kutumba, Dist- Aurangabad.
6. Mukesh Kumar S/o Late Sukadev Bhakta R/o Village- Kharihaniya, P.O.- R.K. Malahi, P.S.- Paroo, District- Muzaffarpur.
7. Pramod Kumar S/o Jagarnath Bhakta R/o Village- Kharihaniya, P.O.- R.K. Malahi, P.S.- Paroo, District- Muzaffarpur.
8. Dinesh Kumar Pankaj S/o Sri Rajpati R/o Vill- Pipara, P.O.- Mokulpur, P.S.- Mariahu, District- Jaunpur.
9. Kundan Kumar S/o Ashok Prasad R/o Village, P.S. and P.O.- Barun, District- Aurangabad.
10. Uttam Kumar S/o Sri Vishwanath Sharma R/o Vill, P.S. and P.O.- Barun, District- Aurangabad.
11. Vijay Kumar S/o Sri Shambhu Saran Sah R/o Village- Shivanpur, P.O.- Ankorha, P.S.- Badem (OP), Dist- Aurangabad.
12. Santosh Kumar S/o Raghav Prasad R/o Vill- Beni Bigha, P.O.- Saduri Karma, P.S.- Narari Kala Khurd, Dist- Aurangabad.
13. Vishal Kumar S/o Ashok Prasad Sony R/o Surya Mandir Road, Yamuna Nagar, P.S., P.O. and Dist- Aurangabad.
14. Vikash Kumar S/o Rajaram Vishwakarma R/o Vill- Shivanpur, P.O.- Ankorha, P.S.- Badem (OP), Dist- Aurangabad.

... .. Petitioners

Versus

1. Utility Power-tech Ltd. through its Chairman, having its registered office at UPL House, W-24, Sector-11, Noida- 201301.
2. The Chairman, Utility Power-tech Ltd. having its registered office at UPL House, W-24, Sector-11, Noida- 201301.
3. The Director, Utility Power-tech Ltd. having its registered office at UPL House, W-24, Sector-11, Noida- 201301.
4. The Chief Executive Officer, Utility Power-tech Ltd. having its registered office at UPL House, W-24, Sector-11, Noida- 201301.
5. The Resident Manager, Utility Power-tech Ltd., NPGCL-Nabinagar Site, Office at Sone Samridhi Complex, NPGC-Township, P.O.- Ankorha RS, District- Aurangabad, Bihar.
6. The Manager (HR), Utility Power-tech Ltd., NPGCL-Nabinagar Site, Office



at Sone Samridhi Complex, NPGC-Township, P.O.- Ankorha RS, District- Aurangabad, Bihar.

7. Nabinagar Power Generation Company Ltd. (NPGCL) through its Chief Executive Officer, P.O.- Ankorha RS, Aurangabad, Bihar.
8. The Director HR, NTPC Limited, NTPC Bhawan, SCOPE Complex, Institutional Area, Lodhi Road, New Delhi- 110003.
9. The Collector, Aurangabad, Bihar.
10. The Regional Labour Commissioner, Patna, Bihar.
11. The Labour Superintendent, Aurangabad, Bihar.

... ... Respondents

Appearance :

For the Petitioners	:	Mr. Binod Kumar Singh, Advocate
		Ms. Vagisha Pragya Vacaknavi, Advocate
For the Respondent State:		Mr. Sarvesh Kumar, G.P.-24
For the Respondent NTPC :		Mr. Tuhin Shankar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 08-10-2021

This matter has been taken up for hearing on-line because of COVID-19 Pandemic restrictions.

2. It is asserted in the writ application that Utility Power-tech Limited (in short 'UPL') (respondent 1st set) was constituted in the year 1995 and under contract agreements, the office support staffs and workers are provided by the said UPL in all projects of National Thermal Power Corporation Limited (NTPC) (respondent No.8). Nabinagar Power Generating Company Limited (in short 'NPGCL') is the wholly owned subsidiary of NTPC located in Aurangabad district, Bihar.

3. It is the petitioners' case that they were deployed as support man power through UPL at NPGCL in response to a purchase order placed by NPGCL to UPL for one year, which was



extended continuously for years in past as the nature of job and post is permanent in nature.

4. It has further been asserted in the writ application that petitioner No.1 is working as Supervisor/High Skilled Worker in Civil Department for more than four and half years, Petitioner No.2 as Skilled Worker R&R Department for more than two and half years, petitioner No.3 as Senior Accountant/High Skilled Worker in Finance Department for more than six years, petitioner No.4 as Supervisor/High Skilled Worker in R&R Department for more than three and half years, Petitioner No.5 as Supervisor/High Skilled Worker in Safety Department for more than four years, petitioner No.6 as Senior Accountant/High Skilled Worker in Finance Department for more than nine years, petitioner No.7 as Supervisor/high skilled worker for more than six years, petitioner No.8 as Supervisor/High Skilled Worker in C&M Department for more than 11 years, petitioner No.9 as Supervisor/High Skilled Worker in R&R Department for more than seven years, petitioner No.10 as Skilled Worker in R&R Department for more than three years, petitioner No.11 as Supervisor/High Skilled Worker in IT Department for more than four years, petitioner No.12 as Skilled Worker in C&M Department for more than three years, petitioner No.13 as Skilled Worker in R&R Department for more than four



years and petitioner No.14 as Supervisor/High Skilled Worker in C&M Department for more than three years. Their respective letters of appointment have been brought on record by way of Annexure-P/1 series. The said letter has been issued by UPL, which has been shown as joint venture of Reliance Infrastructure Limited and NTPC Limited.

5. The petitioners have filed this application seeking direction to the respondents to allow them to continue as supporting staff for working against various posts in the office of NGPCL, Nabinagar, Aurangabad, consequent upon deployment by UPL as the contract period from 17.06.2020 to 16.06.2021 'vide purchase order dated 15.06.2020' is still in force. Such relief is being sought not only for the petitioners, but also for other similarly situated persons. They are also seeking direction for payment of salary with interest from 26.12.2020 till continuance of employment under the contract for the period 17.06.2020 to 16.06.2021.

6. I.A. No. 1 of 2021 has been filed in the present writ application under Order 1 Rule 10(2) of the C.P.C. for addition of 49 persons as petitioners.

7. I.A. No. 1 of 2021, in the Court's opinion, is completely misconceived and is accordingly rejected.



8. From the appointment letters, on which the petitioners are placing reliance, it is evident that those are letters of engagement on assignment on fixed tenure basis for the project site at NPGCL, Nabinagar.

9. Mr. Binod Kumar Singh, learned counsel appearing on behalf of the petitioners has submitted that since the service contract for deployment of supervising staff is still in force between the petitioners and UPL, the UPL is obligated to allow the petitioners and other similarly situated persons to discharge their respective duties. He has further submitted that the petitioners are also entitled for salary with interest for the entire period of '*Dharana*' as the petitioners were illegally restrained from performing their work. He has also contended that the petitioners are entitled for house rent allowance, conveyance allowance, mobile allowance etc., which have been arbitrarily reduced. He has submitted that UPL is 'State' within the meaning of Article 12 of the Constitution of India for the reason that NTPC Limited is a Government of India Company and UPL is joint venture of Reliance Infrastructure Limited and NTPC Limited.

10. It is evident on reading of the pleadings in the writ application that the workers deployed by UPL at the project of NPGCL have already approached the State Labour Department,



Government of Bihar, and a conciliation proceeding has been undertaken by the Regional Labour Commissioner (C), Patna.

11. In my opinion, this writ application under Article 226 of the Constitution of India cannot be maintained in the light of the assertions made in the writ application in view of the nature of dispute amongst the parties. Further, conciliation proceeding under the Industrial Disputes Act is already underway.

12. This writ application is accordingly dismissed with the liberty to the petitioners to raise their claim before appropriate forum under the Industrial Disputes Act, 1947.

13. There shall, however, be no order as to costs.

(Chakradhari Sharan Singh, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08.10.2021.
Transmission Date	N/A

