

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6673 of 2019

1. Bijay Kumar Singh, Son of late Paras Nath Singh, Resident of Village- Bilauna Ke Tola, P.O. Bilauna, P.S. Bihiya, Distt. Bhojpur
2. Raj Kumar, Son of Sri Ram Prasad, Resident of Village- Naranga, P.S. Balepur Kala, District- Deoria (U.P.).
3. Gopal Kumar, Son of Sri Rambaran Singh, Resident of Mohalla- Shivhar, Ward No. 7, P.S. Mokama, Dist. Patna
4. Ganesh Saw, Son of Sri Arjun Saw, R/o Village- Dhanakdob, P.S. Ghoswari, Distt. Patna
5. Ghanshyam Puri, Son of Sri Rambriksh Puri, R/o Village- Morenglish, P.S. Mokama, Distt. Patna
6. Vimal Kumar Srivastva, Son of late Pashupati Nath Srivastava, Resident of Village and P.O.- Kachnar, P.S.- Revelganj, Distt. Saran.
7. Kumar Bharat, Son of late Surendra Prasad Rai, R/o Village- Rannu Chak, P.S. Nath Nagar, Distt. Bhagalpur
8. Binod Kumar, Son of late Sureshwar Singh, Resident of Village and P.O. and P.S. - Sahatwar, Distt- Ballia (U.P.).
9. Suman Kumar Jha, Son of late Guneshwar Jha, R/o Mohalla- Ward No. 4, Bharat Wagon Colony, Mokama, P.S. Mokama, Distt. Patna
10. Piyush Kant Pandey, Son of Sri Vidyanand Pandey, R/o Mohalla- Vaishno Devi Nagar near Bodh Bihar, Kamthi Road, P.S. Kalamna, District- Nagpur (Maharashtra).
11. Upendra Kumar, Son of Sri Sohan Raut, Resident of Mohalla- Bhrrat Wagon Colony Mokama, P.S. Mokama, Distt. Patna
12. Ajit Kumar, Son of Sri Rambali Prasad, R/o Mohalla- Kachara Mohalla Dakbangla Road Mokma, P.S. Mokama, Distt. Patna
13. Ashok Kumar, Son of Sri Saryug Prasad, R/o Mohalla- Ward No. 1 Anbho Asthan Mokama, P.S. Mokama, Dist. Patna
14. Vijay Kumar Jha, Son of Sri Shashi Kant Jha, Resident of Village- Laxmipur, P.S. Madhopur, Distt. Madhubani
15. Krishna Kumar, Son of Sri Ramprasad Mahto, Resident of Village- Pitaunjiya, P.S. Rahui, Distt. Nalanda.

... .. Petitioner/s

Versus

1. The Union of India through Chairman of Railway Board, Ministry of Railway, Government of India, Rail Bhawan Raisina Marg, New Delhi-110001
2. The General Manager, East Central Railway Zone, Ministry of Railway, Zonal Office Road Dighi Kala, Hajipur, Bihar 844101
3. The Managing Director-Cum-Chairman, Bharat Wagon and Engineering Company Limited (A Government of India under taking), Head Office Mauryalok Complex, Patna, Bihar



4. The Incharge (Personal and Administration), Head Office Maurya Complex, Patna, Bihar
5. The Unit Head Bharat Wagon and Engineering Company Limited (A Government of India under taking) Mokama Works Mokama- 803303

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the Respondent/s	:	Mr. Ankur Apurv Singh, AC to CGC
For the Bharat Wagon	:	Mr. Ray Saurabh Nath, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 21-12-2022

Heard Mr. Sanjay Kumar, learned counsel for the petitioners, Mr. Ray Saurabh Nath, learned counsel for the Bharat Wagon and Engineering Company Ltd., and Mr. Ankur Apurv Singh, learned AC to CGC, for the Union of India.

2. Altogether 15 petitioners approached before this Court seeking direction upon the respondents to pay entire retiral benefits with all consequential benefits to them from the date of their appointment, as several persons, who retired under Voluntary Retirement Scheme (hereinafter referred to as 'VRS') like the petitioners and released from the service of the Company with effect from 31.10.2017 have been paid their retiral benefits, but so far the petitioners are concerned, they have paid their retiral benefits from the date of confirmation of their services vide order dated 04.02.2009 with effect from 01.01.2009.

3. The grievance of the petitioners is based on a fact that other persons, whose names have been mentioned in Annexure-3



and whose services were also confirmed with effect from 01.01.2009, they have been allowed the benefits under the VRS with effect from their initial date of appointment and so far the petitioners are concerned, discrimination has been caused. In support of the aforesaid submissions, learned counsel for the petitioners submits that the persons with whom the petitioners are seeking parity, they were also appointed on compassionate ground as temporary basis and time to time their services have been extended for a further period of six months and more and in fact they were never appointed as permanent basis and lastly their services were confirmed with effect from 01.01.2009 along with the petitioners.

4. He also submits that one of the similarly situated person, namely, Anil Kumar, who was also appointed on compassionate ground and whose services were also confirmed with effect from 01.01.2009, has been paid the benefits under the VRS by computing his services with effect from his date of appointment. however, later on notice was issued for recovery of the excess amount paid on account of computing his service prior to the date of confirmation, against which he approached before this Court by filing C.W.J.C. No. 1569 of 2021. As the representation of the petitioner was found pending consideration



before the concerned authority, learned coordinate Bench of this Court vide order dated 16.09.2021 directed the petitioner to file a fresh representation raising his grievance before the Executive (Personnel and Administration), Bharat Wagon and Engineering Company Ltd. Mokameh Works, Mokameh, Patna to consider his case and dispose of the same in accordance with law by a reasoned order. However, till date no recovery has been made and as such from the facts it appears that the claim of the said Anil Kumar has been found justified and he has been allowed the benefit with effect from the date of his appointment.

5. He further contended that though counter affidavit and supplementary counter affidavit have been filed on behalf of respondent nos. 3 to 5 and submissions have been made that the persons, with whom the petitioners are seeking parity and whose names have been mentioned in Annexure-3 to the writ application, in fact, their names have been wrongly mentioned, as they were appointed in the year 1998 and, as such, they have been allowed all the benefits under VRS by computing their services from the date of their appointment.

6. It has also been submitted that the case of the petitioners are different to those, who have been appointed way back in the year 1998 and so far the petitioners are concerned, they



were appointed on compassionate ground in 1998 on temporary basis and their services have been confirmed with effect from 01.01.2009 vide Annexure-3 to the writ application.

7. Having heard the learned counsel for the parties and considering the materials available on record, prima facie, from the statements made on behalf of the petitioners, based upon the documents, as contained in Annexures- 8 and 9, it appears that the persons with whom the petitioners are seeking parity they were also appointed on temporary basis/probation and their services were extended for six months. It is also the case of the petitioners that the petitioners and other similarly situated persons have also been allowed promotion with effect from same and similar date, which also suggests that they are appointees of 1997 and 1998 and, as such, at the fag end of their service no discrimination can be made.

8. In view of the submissions made on behalf of the parties and considering the materials available on record, the petitioners are also directed to file an exhaustive representation along with a copy of this order before the respondent no.2 within a period of four weeks, who shall consider the claim of the petitioners on the basis of the materials available on record and



pass a reasoned order preferably within a period of two months from the date of receipt of such representation.

9. It is needless to say that if the claim of the petitioners find favour, necessary consequential order would be passed within the aforesaid period.

10. Accordingly, the present writ application stands disposed of.

(Harish Kumar, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.12.2022
Transmission Date	NA

