

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21043 of 2021

1. The Union of India represented through the General Manager, Eastern Railway, Fairlie Palace, 17, Netaji Subhash Road, Kolkata-1 (W.B.).
2. The Chief Personnel Officer, Eastern Railway, Fairlie Palace, Netaji Subhash Road, Kolkata-1 (W.B.).
3. The Divisional Railway Manager, Eastern Railway, Malda Division, Malda (W.B.).
4. The Sr. Divisional Personnel Officer, Eastern Railway, Malda Division (W.B.).
5. The Divisional Personnel Officer, Eastern Railway, Malda Division, Malda (W.B.).

... .. Petitioner/s

Versus

1. Vinay Bhushan Mishra Son of Late Kamala Pati Mishra Working as Mail Guard, Eastern Railway, Jamalpur, at present residing at Railway Qr. O. 292/AB, Rampur Colony, At and P.O.- Jamalpur, District- Munger (Bihar).
2. Ram Janam Bhagat Son of Shri Bishwanath Bhagat Working as Mail Guard, Eastern Railway, Sahibganj, Resident of Sambalpur (Lal-Kothi) At and P.O.- Sahibganj, District- Sahibganj.
3. Subhash Chandra Ram Son of Late Jodhan Ram Working as Mail Guard, Eastern Railway, Sahibganj, residing in the Railway Qr. No. 48, D, South Colony, At and P.O.- Sahibganj, District- Sahibganj.
4. Birendra Kumar Singh Son of Late Nawal Kishore Singh Working as Mail Guard, Eastern Railway, Sahibganj, residing in the Railway Qr. No. 15/CD, North Colony, At and P.O.- Sahibganj, District- Sahibganj.
5. Yogendra Nath Pandey Son of Late Kashi Nath Pandey Working as Mail Guard, Eastern Railway, Jamalpur, residing in the Railway Qr. No.293 GH, Rampur Colony, At and P.O.- Jamalpur, District- Munger (Bihar).
6. Gopal Prasad Son of Late Triyogi Nath Working as Mail Guard, Eastern Railway, Jamalpur, residing at Mohanpur, P.O.- Jamalpur, District- Munger (Bihar).
7. Gopal Prasad Poddar Son of Late Muneshwar Prasad Working as Mail Guard, Eastern Railway, Malda Town, residing at Shivpuri Colony, P.O.- Sahibganj, District- Sahibganj.
8. Subrat Kumar Sarkar Son of Nirmal Kumar Sarkar Working as Mail Guard, Eastern Railway, Malda Town, residing at Mahananda Colony (Near Ankal Ashram), P.O.- Jhalyahalia, At- Malda, District- Malda.
9. Henry Besra Son of Late Jamesh Besra Working as Mail Guard, Eastern Railway, Malda Town, residing at Dhorompur Mission Road, P.O.- Pathna, At- Barharwa, District- Sahibganj.
10. Ashok Kumar Haldar Son of Sirish Chandra Haldar Working as Mail Guard, Eastern Railway, Malda Town, residing at Vidhan Palli (East), P.O.- Jhaljhalia, District- Malda.



11. Dinesh Prasad Son of Late Rajendra Ram working as Mail Guard, Eastern Railway, Jamalpur, residing at Railway Qr. No. 289/CD, Rampur Colony, At and P.O.- Jamalpur, District- Munger (Bihar).
12. Kailash Prasad Sah Son of Late Dhapu Sah working as Mail Guard, Eastern Railway, Sahibganj, residing at Railway Qr. No. 151 F, South Colony, At P.O. and District- Sahibganj.
13. Subash Kumar Son of Late Shital Prasad Yadav working as Passenger Guard, Eastern Railway, Jamalpur, resident of Village- Bari Mirjapur, P.O. and District- Munger (Bihar).
14. Ram Prit Tanty Son of Shri Jagdish Prasad Tanty working as Mail Guard, Eastern Railway, Jamalpur, resident of Village- Sikandarpur, P.O.- Jamalpur, District- Munger (Bihar).
15. Dilip Kumar Paswan Son of Late Ram Das working as Mail Guard, Eastern Railway, Jamalpur, resident of Village- Mohanpur (Near St. Roberts School No. 2), Khalasi Mohalla, P.O.- Jamalpur, District- Munger (Bihar).
16. Niraj Kumar Jha Son of Uma Kant Jha working as Pass Guard, Eastern Railway, Sahibganj, residing at Railway Qr. No. 304 B, Jharha Colony, At and P.O.- Sahibganj, District- Sahibganj.
17. Ahmad Ulla Khan Son of Jameel Ahmad Khan working as Mail Guard, Eastern Railway, Jamalpur, resident of Mohalla- Azad Colony, Purab Sarai, PO and District- Munger.
18. Bateshwar Sharma Son of Late Ram Kishan Sharma working as Mail Guard, Eastern Railway, Sahibganj, residing at Railway Qr. No. 48/B, South Colony, At and PO- Sahibganj, District- Sahibganj.
19. Shobha Kant Mandal Son of Shri Tarni Mandal working as Mail Guard, Eastern Railway, Sahibganj, residing at Kela Bari Dhangarsi, PO/PS and District- Sahibganj.
20. Suresh Prasad Son of Late Raghubir Prasad working as Mail Guard, Eastern Railway, Sahibganj, residing at Railway Qr. No. 136-A-South Colony, P.O. and P.S.- Sahibganj, District- Sahibganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Pradeep Kumar, Sr. Panel Counsel
Mr.Sujeet Kumar Sinha, CGC

For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 05-07-2022

In the instant petition, petitioners have assailed



the order dated 01.06.2017 passed in O.A. No. 721 of 2012 by the Central Administrative Tribunal, Patna Bench, Patna. The respondents were employees of the petitioner-department, were extended the benefit of 2nd and 3rd MACP with reference to their service particulars on 04.12.2009 w.e.f. 01.09.2008 and thereafter on 18.05.2012 aforesaid benefit of MACP has been cancelled which was the subject-matter of O.A. No. 721 of 2012. The Tribunal while allowing O.A. No. 721 of 2012 passed following order (page 62 para 9):

“9. In conclusion, the OA is allowed. The cancellations order dated 18.05.2012 (Annexure A/2) with respect to the applicants is quashed and set aside. The respondents are directed to restore the financial upgradation under MACPS which was granted by the letter dated 04.12.2009 (Annexure A/1) within three months from the date of receipt of a copy of this order. The respondents shall be at liberty to verify the records again which has to be in consonance with the aforesaid observations. No order as to costs.”

2. Learned counsel for the petitioners was asked as to whether respondents were given due show cause notice while apprising each of the respondent as to how each of them are not entitled to MACP and it was wrongly extended w.e.f. 01.09.2008 on 04.12.2009. In cancellation of MACP which was granted to each of the respondent is without notice and it is not



disputed by the learned counsel for the petitioners. Moreover, the tribunal has given liberty to the petitioners to verify the record once again and it has to be in consonance with the observations made in the order dated 01.06.2017 passed in O.A. No. 721 of 2012.

3. At this juncture, it is to be noted that the present petition was filed in the year 2021 against the order dated 01.06.2017 in the month of December, 2021. There is enormous delay in filing the present petition. There is no pleading to condone the delay of about 4 years. Therefore, petitioners have not made out a case. Accordingly, the present petition stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	13.07.2022
Transmission Date	

