

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.19175 of 2021**

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1. Mantu Kumar Roy Son of Late Harihar Roy Resident of Village- Subhaigarh (South Tola), Vishnupur Vasant, P.S.- Hajipur Sadar, District- Vaishali, Pin Code- 844101 (Bihar).
2. Kuldeep Sah Son of Late Vishnu Sah Resident of Village- Phulwariya-2, Ward No. 3, P.O.- Barauni, P.S.- Phulwariya, District- Begusarai, Pin Code- 851112 (Bihar).

... .. Petitioner/s

Versus

1. The Railway Board, Ministry of Railways Through the Director Catering, New Delhi- 110001.
2. The General Manager, East Central Railway Hajipur, P.O.- Digghi Kalan, P.S.- Hajipur, District- Vaishali at Hajipur, Pin Code- 844101 (Bihar).
3. The Divisional Railway Manager, East Central Railway, Sonapur, P.O. and P.S.- Sonapur, District- Saran, Pin Code- 841101 (Bihar).
4. The Divisional Railway Manager (Personnel) East Central Railway, Sonapur, P.O. and P.S.- Sonapur, District- Saran, Pin Code- 841101 (Bihar).
5. The Divisional Railway Manager (Commercial) East Central Railway, Sonapur, P.O. and P.S.- Sonapur, District- Saran, Pin Code- 841101 (Bihar).
6. Vivek Kumar Sinha Son of Late Vimal Deo Prasad Resident of Village- Phulwariya, Ward No. 7, P.O.- Barauni, P.S.- Phulwariya, District- Begusarai, Pin Code- 851112 (Bihar).
7. Sunil Kumar Yadav Son of Bharat Yadav Resident of Village- Mutlupur, Ward No. 16, P.O. and P.S.- Teghra, District- Begusarai, Pin Code- 851113 (Bihar).
8. Mukesh Kumar Son of Late Kashinath Mahto Resident of Village- Shokahar-1, Ward No. 5, P.O.- Barauni, P.S.- Phulwariya, District- Begusarai, Pin Code- 851112 (Bihar).
9. Subodh Kumar Son of Late Ram Jatan Yadav Resident of Village- Dewari-1, Ward No. 5, P.O.- Barauni, P.S.- Teghra, District- Begusarai, Pin Code- 851113 (Bihar).
10. Mahesh Prasad Son of Late Triloki Prasad Resident of Village- 10 No. Boring, P.O.- Gorakhnath, P.S.- Gorakhpur, District- Gorakhpur, Pin Code- 273015 (U.P.).
11. Parmeshwar Sah Son of Late Mishri Sah Resident of Village- Jahanpur (Ram Chandrapur), P.O.- Bachchwara, P.S.- Bachchwaraa, District- Begusarai, Pin code- 851115 (Bihar).
12. Chamru Sah Son of Late Jugal Sah Resident of Village- Phulwaria-1, Ward No. 7, P.O.- Barauni, P.S.- Phulwariya, District- Begusarai, Pin Code- 851112 (Bihar).
13. Shobhit Roy Son of Late Dila Roy Resident of Village and P.O.- Subhaigarh (South Tola), P.S.- Hajipur Sadar, District- Vaishali Hajipur, Phulwariya, District- Begusarai, Pin Code- 844101 (Bihar).



14. Devanand Das Son of Sri Sadanand Resident of Village- Shokhara-1, Ward No. 2, P.O.- Barauni, P.S.- Phulwariya, District- Begusarai, Pin Code- 851112 (Bihar).
15. Arun Kumar Poddar Son of Late Sagar Poddar Resident of Village- Shokhara-1, Ward No. 2, P.O.- Barauni, P.S.- Phulwariya, District- Begusarai, Pin Code- 851112 (Bihar).
16. Md. Shakil Son of Late Md. Majid Resident of Village- Shokhara-2, Ward No. 10 (Kamalbagh), P.O.- Barauni, P.S.- Phulwariya, District- Begusarai, Pin Code- 851112 (Bihar).
17. Banarasi Sah Son of Late Govind Sah Resident of Village- Shokhara-1, Ward No. 2, P.O.- Barauni, P.S.- Phulwariya, District- Begusarai, Pin Code- 851112 (Bihar).
18. Shyam Lal Sah Son of Late Lakhan Sah Resident of Village- Phulwaria-2, Ward No. 11, P.O.- Barauni, P.S.- Phulwariya, District- Begusarai, Pin Code- 851112 (Bihar).
19. Rajan Kumar Son of Late Haribansh Roy Resident of Village- Sonepur, P.O.- Sonepur, P.S.- Sonepur, District- Saran at Chapra, Pin Code- 841101 (Bihar).
20. Md. Idris Kamal Son of Late Md. Kabiruddin Resident of Village- Phulwaria-3, Ward No. 5, P.O.- Barauni, P.S.- Phulwariya, District- Begusarai, Pin Code- 851112 (Bihar).
21. Saroj Kumar Son of Late Ram Rasik Roy Resident of Village- Phulwaria-1, Ward No. 5, P.O.- Barauni, P.S.- Phulwariya, District- Begusarai, Pin Code- 851112 (Bihar).

... .. Respondent/s

**Appearance :**

|                      |   |                                                                           |
|----------------------|---|---------------------------------------------------------------------------|
| For the Petitioner/s | : | Mr.Uday Kumar, Advocate<br>Mr. Maya Nand Jha, Sr. Counsel                 |
| For the Respondent/s | : | Mr. Praveen Kumar Sinha, Sr. Panel Counsel<br>Mr. Rakesh Kumar Sinha, CGC |

**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI  
and**

**HONOURABLE MR. JUSTICE RAJIV ROY**

**ORAL JUDGMENT**

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

**Date : 12-07-2022**

In the present petition, the petitioners have assailed  
the order of the Central Administrative Tribunal, Patna  
Bench Patna dated 25.09.2017.

2. The present two petitioners and 16 others filed



O.A. No. 275 of 2014 in respect of their grievances that they should be absorbed in a Group-D service of the Railway from the date they appeared in the screening test i.e. on 15.03.2007, 16.03.2007 and 03.04.2007 respectively. The Tribunal rejected the claim of the petitioners and 16 others on 25.09.2017 vide Annexure-20. Except petitioners rest of them filed writ petition before this Court in CWJC No. 19377 of 2017 which was allowed in favour of 16 persons. Petitioners who are low paid employees could not approach this Court along with 16 persons. They filed the present petition as and when 16 persons' services were regularized. On 16.08.2019, these two petitioners filed this petition.

3. Learned counsel for the petitioners vehemently contended that in all fairness the respondent-department should have extended the benefit of this court's order read with the regularization of the 16 persons order dated 16.08.2019 to these petitioners as a Model employer.

4. On the other hand, the petitioners were compelled to approach this Court on par with the 16 persons, who obtained orders in their favour and further it was given effect in regularizing their services on 16.08.2019 and the petitioners are also entitled to relief on par with the 16 others



read with the decision of this court passed in Vivek Kumar Sinha & Others.

5. Per contra, learned counsel for the respondents resisted the contention of the petitioners and submitted that the petitioners had cause of action on par with Vivek Kumar Sinha and others who approached this Court questioning the order of the Tribunal. It has further submitted that regularization is a policy matter and it is restricted to certain time limit. Therefore, the petitioners are not entitled on the ground of delay.

6. In the meanwhile, it is noticed that the petitioners have filed C.W.J.C. No. 9917 of 2020 wherein this Court passed the following order on 25.3.2021:

“For issuance of an appropriate writ/order/direction, commanding the Respondent Authorities to absorb the petitioners in Regular Group -”D” Service as per their own Policy Decision dated 14.7.2000 (Annexure-2) of this writ application in compliance of the Order passed in Original Application No. 1768 of 1999 by the Central Administrative Tribunal, Principal Bench, New Delhi which was affirmed by the Hon’ble Supreme Court of India. It is further prayed that the Respondents be directed to absorb the



Petitioners treating them at par with other similarly situated persons whose services have been regularized in Group- "D" Post vide their Order dated 16.8.2019 (Annexure-22 of this writ application) in the light of Order dated 15.01.2018 passed in C.W.J.C. No. 19377 of 2017 (Annexure-21 of this writ application) which was filed by the similarly situated persons before the Hon'ble High Court, Patna which was filed against the Order dated 25.09.2017 (Annexure-20 of this writ application) passed by the Learned Central Administrative Tribunal, Patna Bench, Patna in Original Application No. 050/00275 of 2014 with all consequential benefits for which the Petitioners have represented before the Respondent concerned for their Regular absorption in the Service of Group- "D" Post and any other relief(s) be granted to which the Petitioners found entitled in the facts and circumstances of the case."

7. Heard learned counsel for the respective parties.

8. Short question for consideration in the present petition is whether the petitioners are entitled to regularization on par with Vivek Kumar Sinha and 15 others in terms of decision of this Court passed in C.W.J.C. No. 19377 of 2017 decided on 15.01.2018 read with



regularization order in their favour dated 16.8.2019 or not? Undisputed facts are that these two petitioners and 16 others jointly filed application before the Central Administrative Tribunal, Patna Bench, Patna, seeking a direction to regularize their services. Such application was rejected, in the result except these two petitioners 16 persons have filed petition before this Court and obtained order in their favour and it was implemented by the Department on 16.8.2019 while regularizing the services of those 16 persons. In all fairness and official respondents being the model employer should have extended the benefit of regularization to these two petitioners on par with 16 persons namely Vivek Kumar Sinha and others. Merely these two petitioners did not approach this Court in pursuance of order of the Tribunal timely, it is not appropriate to deny the benefit of regularization. Denial of regularization to these two petitioners would be discrimination among the similarly placed persons. In the light of these facts and circumstances, the order dated 25.09.2017 passed by the Central Administrative Tribunal, Patna Bench, Patna in O.A. No. 050/00275 of 2014 is set aside in so far as the petitioners are concerned and further the concerned respondent is hereby



directed to take note of the decision passed in the Vivek Kumar Sinha and others and further regularize petitioners services with effect from 16.8.2019 with reference to order dated 16.8.2019. Accordingly, the petition stands allowed.

10. The concerned respondent is hereby directed to pass regularization order if otherwise the petitioners are entitled to on par with 16 others and extend all service and monetary benefits within a period of three months from the date of receipt of this order.

11. At this juncture, the learned counsel for the respondent submitted that the scheme of regularization is not in vague as on this day. It would be hurdle for regularization of these two petitioners. Such contention cannot be accepted for the reasons that regularization of these two petitioners were required to be taken in terms of the existence of the scheme of regularization when Vivek Kumar Sinha and 15 others services were regularized. There is no harm in regularizing these two petitioners merely because the scheme is not existing as on today. It is to be noted that regularizaion would be effective as and when the relevant criteria laid down in the regularization of scheme is fulfilled by the respective employee. That apart it is to be noted that the



petitioners are low paid/Group “D” employees. Therefore, justice is required to be rendered while extending service benefit on par with Vivek Kumar Sinha and 15 others.

**(P. B. Bajanthri, J)**

**( Rajiv Roy, J)**

Ravi/-

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| AFR/NAFR          | NAFR       |
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