

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14751 of 2018

1. The Union Of India
2. The Chief Post Master General, Post Offices, Bihar Circle, Meghdoot Bhawan, G.P.O. Complex, Patna. ... Petitioners

Versus

1. Madan Thakur, Son of Nageshwar Thakur, Resident of P.N.T. Colony, Kidwaiपुर, Quarter No.115, Type-01, P.S.- Budha Colony, District- Patna.
 2. Manoj Kumar Ram, Son of Mithilesh Prasad Singh, Resident of Kurjee Kothia, P.O.- Sadakat Ashram, P.S.- Digha, District- Patna.
 3. Amitesh Kumar, Son of Sri Lakshman Singh, Resident of Village- Rampur Diyara, P.S.- Maner, District- Patna.
 4. Dashrath Kumar Verma, Son of Hardeo Mahto, Resident of Village- Moriyavi, P.O.- Hamraj Sai, P.S.- Dhanarua, District- Patna.
 5. Sudama Prasad, Son of Late Baijnath Sao, Resident of Village- P.O.- Sadisopur, P.S.- Bihta, District- Patna.
 6. Arbind Kumar Rajak, Son of Ravindra Rajak, Resident of Village- Saphipur, P.O.P.S.- Khushrupur, District- Patna.
 7. Ashok Kumar, Son of not known, Resident of Village- Jallipur, P.S.- Naubatpur, District- Patna.
 8. Tarun Kumar, Son of not known, Slum No.-192, P.O.- Lohiyanagar, P.S.- Kankarbagh, District- Patna.
 9. Pankaj Kumar, Son of Rajeshwar Paswan, Resident of Village- Ranipur, P.O.P.S.- Phulwari Sharif, District- Patna.
 10. Karan Kumar, Son of Akhilesh Prasad, Resident of Village- Mahmadpur Barsiyana, P.O.- Salaihpur, P.S.- Akangarsarai, District- Nalanda.
 11. Mrityunjay Kumar, Son of not known, Resident of Village- Rampur, P.O.- Rampur, P.S.- Rampur, District- Buxar.
 12. Santosh Kumar, Son of Late Mahabir Prasad, Resident of Village- Janangira, P.O.- Sultanganj, District- Bhagalpur. ... Respondents
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Appearance :

For the Petitioners	: Mr.Raj Kamal, Adv.
For the Respondents 1,2,3,5,6,8&12	: M/s M.P. Dixit & Ravindra Kr., Advs.
For the Respondents 4,9&11	:Mr. Manoj Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

11 29-08-2023

Heard the learned counsel for the parties.

2. The present writ petition has been filed for the following relief(s) :



“..... for quashing the award dated 15.11.2017 as well as its gazette publication on 21.12.2017, as far as it relates to the award dated 15.11.2017, passed in Reference case no. 32/2014, 33/2014, 48/2014, 50/2014, 51/2014, 52/2014, 53/2014, 55/2014, 60/2014, 61/2014, 62/2014 & 63/2014, analogously, passed by the learned Central Government Industrial Tribunal No. 1, Dhanbad whereby and where under it has been directed to regularize the services of Dashrath Kr. Verma (Reference Case No. 50/2014) and the rest of the workmen be taken into job as daily wager at once to save them from starvation, and when the vacancy arises, absorb them since they provided services.”

3. The counsel for the petitioners has stated that the Tribunal without taking into consideration that there was no iota of evidence produced by the respondents to show that they have been employed by the petitioners' organization has passed the impugned order directing the petitioner to regularize the service of the Respondent No. 4, Dasrath Kumar Verma, and in so far as the other respondents are concerned, they were directed to be taken back as daily wagers as and when vacancy arises. Learned counsel has stated that in spite of a specific plea taken by the petitioner that the Respondent No. 1, Respondent No. 2 and Respondent No. 12 herein were gainfully employed at some other place and were not working in the petitioners' organization and, therefore, they were not entitled to any relief, the Tribunal has passed the impugned order. Further, it is stated that the Tribunal on the basis of surmises and conjunctures has come to the conclusion that the respondents



herein are the employees of petitioners' organization without any material being placed by the said workers to substantiate their claim. Further, it is stated by the counsel that the Tribunal has completely misdirected itself by misinterpreting the cross-examination of the MW 1 in Reference Case No. 32 of 2014 and held that MW 1 had admitted that all the respondents are working as daily wage workers, but, as a matter of fact the cross-examination of MW 1 is with reference to Reference Case No. 32 of 2014 only and not to the other cases which were filed by other respondents herein. Learned counsel has stated that in the absence of any material to show that respondents are employed by the petitioners, the Tribunal ought not to have issued the said direction impunged in the present Writ Petition. Further, it is stated that the direction to regularize the services of other workers is contrary to the well settled principles of law as laid down by the Hon'ble Supreme Court of India.

4. Per contra, the learned counsel appearing on behalf of the respondents has stated that based on the evidence led by Respondent No. 4, wherein the Tribunal had found that the Respondent No. 4 had been continuously working for more than 240 days, has directed the authorities to regularize his services. Learned counsel has stated that in so far as other respondents are



concerned, the Tribunal has only directed the petitioners to take them as daily wage workers and regularize their services as and when vacancy arises. Learned counsel has stated that the order of the Tribunal is perfectly in consonance with the well settled principles of law and does not require any modification or interference by this Hon'ble Court and prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the order passed by the Tribunal shows that the Tribunal has passed the common award with reference to individual cases filed by the respondents herein.

6. Admittedly, as seen from the order that in so far as the Respondent No. 4 is concerned, the Tribunal after duly taking into account the fact that the number of days the Respondent No. 4 has worked are more than 240 days has issued the direction to regularize his service. That in so far as other respondents are concerned, the Tribunal has only directed the authorities to take them as daily wagers and in case any vacancy arises the other respondents should be absorbed. The observation made with regard to 11 workmen other than the Respondent No. 4, directing the authorities to take them as daily wagers is inconformity with law, however, in so far as the order directing the authorities to absorb them as and when vacancy arises is concerned the said



direction is not legally tenable and cannot be countenanced in view of the fact that absorption of an employee into the organization cannot be as a matter of right. Unless and until the workers puts in minimum number of required days and meets other eligibility criteria the service of the said employee cannot be regularized.

6. Therefore, this Court is of the opinion that the direction issued by the Tribunal to regularize the services of other 11 workmen, as and when the vacancy arises is legally untenable and the order to that extent has to be modified. Therefore, the direction issued by the Tribunal to the extent of directing the petitioners' organization to regularize the services of 11 workmen working as daily wagers as and when the vacancy arises is set aside. The order directing the regularization of Respondent No. 4 herein holds good.

7. The present writ petition is, accordingly, **disposed off**, subject to the clarification issued by this Court.

(A. Abhishek Reddy , J)

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