

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3481 of 2023

1. Mukesh Kumar, Son of Prabhu Choudhary Resident of Village- Chhota Tumaria Tola, Raxaul, Police Station- Raxaul, District- East Champaran.
2. Sandeep Kumar Srivastava, Son of Binod Prasad Resident of Nahari Road, Behind Soha Hall, Ward No. 24, Raxaul Police Station- Raxaul, District- East Champaran.
3. Birendra Mishra, Son of Late Yamuna Mishra Resident of Village- Uchi Dih, Police Station - Palanwa, District- East Champaran.
4. Brajesh Kumar Singh @ Brajesh Kumar, Son of Harendra Singh Resident of Village- Sri, Ward No. 12, Police Station- Palanwa, District- East Champaran.
5. Vishal Kumar @ Vishal Kumar, Gupta Son of Hari Kant Prasad Resident of Main Road Koiria Tola, Raxaul, Police Station- Raxaul, District- East Champaran.
6. Vinay Kumar Upadhyay @ Vinay Kumar, Son of Late Lagandeo Upadhyay Resident of Raghunathpur, Ward No. 6, Gali no. 3, near Nakchipatti Pul, Raghunathpur, Motihari, District- East Champaran.
7. Anjani Kumar Shrivastava, Son of Bachcha Prasad Srivastava, Care of Manoj Bharti Resident of Village- Purani Gludari, Mahavir Chowk, Bettiah, Police Station- Bettiah Town, District- West Champaran.
8. Vishal Kumar Gupta, Son of Raj Kumar Prasad Gupta Resident of Mahaut Toli, Near Civil Court, West Champaran at Bettiah, Police Station- Bettiah Town, District- West Champaran.
9. Ramesh Uraon, Son of Late Budhu Uraon Resident of Village- Nautanwa, Tola- Bariyarawa, Police Station- Semra, District- West Champaran.
10. Binit Kumar Chaubey, Son of Late Durbeo Choubey Resident of Village- Balua Rampurwa, Police Station- Baira, District- West Champaran.
11. Anil Kumar, Son of Late Saryu Prasad Resident of Ward No. 28, Sitamarhi Police Station and District- Sitamarhi.
12. Rajendra Mandal, Son of Late Mahendra Mandal Resident of Village- Chhaurahiya, Ward No. 4, Police Station- Suppi, District- Sitamarhi.
13. Subhash Kumar, Son of Chandeshwar Mandal Resident of Village- Madhuwan, Ward No. 4, Post Office- Chak Mahila, Police Station- Punaura, District- Sitamarhi.
14. Munna Kumar Jha, Son of Rambalak Jha Resident of Village- Deokuli, Police Station- Laheriasarai, District- Darbhanga.
15. Suraj Kumar Ray, Son of Late Bhola Ray Resident of Village- Balbhadrapur, Police Station- Laheriasarai, District- Darbhanga.
16. Satish Kumar Ranjan, Son of Nand Kishore Yadav Resident of Village- Barhi, Police Station- Keoti, District- Darbhanga.
17. Krishan Murari, Son of Chandu Yadav Resident of Chuna Bhatti, Police Station- L.N.M.U. Thana, District- Darbhanga.
18. Pawan Kumar Sah, Son of Late Ramyatan Sah Resident of Village and Post



Office and Police Station- Khirhar, District- Madhubani.

19. Birendra Kumar Anand, Son of Sri Mahavir Mahto Resident of Mohalla- Raham Ganj, Post Office- Lalbagh, Police Station- Town Darbhanga, District- Darbhanga.
20. Vikash Kumar, Son of Ram Bharosh Prasad Gupta Ward No. 1, Riga Road, Naya Tola, Khaiwa, Police Station- Riga, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The Life Insurance Corporation of India through its Chairman, Life Insurance Corporation of India (Central Zone Office), 5th Floor, West Wing, Yogakshema, P.B. No. 19953, Jeevan Bima Marg, Nariman Point, Mumbai-800021.
2. The Chairman, Life Insurance Corporation of India (Central Zone Office), 5th Floor, West Wing, Yogakshema, P.B. No. 19953, Jeevan Bima Marg, Nariman Point, Mumbai- 800021.
3. The Zonal Manager, Life Insurance Corporation of India Zonal Office, Jeevan Deep, Exhibition Road, Patna-800001.
4. The Senior Divisional Manager, Life Insurance Corporation of India, Divisional Officer, Muzaffarpur.
5. The Chief/ Senior/ Branch Manager, Life Insurance Corporation of India, Branch Motihari, East Champaran.
6. The Senior Branch Manager, Life Insurance Corporation of India, Branch Bettiah, District- West Champaran.
7. The Branch Manager, Life Insurance Corporation of India, Branch Raxaul, District- East Champaran.
8. The Branch Manager, Life Insurance Corporation of India, Branch Bagha, District- West Champaran.
9. Life Insurance Corporation of India, Branch Sitamarhi, District- Sitamarhi.
10. Life Insurance Corporation of India, Branch Darbhanga, District- Darbhanga.
11. Life Insurance Corporation of India, Branch Laheriasarai, District- Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar, Adv
For the Respondent/s : Mr.Raj Dular Sah, Adv

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 01-08-2023

1. Heard learned counsel for the petitioners and



learned counsel for the respondents.

2. The writ application has been filed for quashing of the order dated 13-4-2022, passed by the Senior Divisional Manager of the respondent-Corporation. The petitioners' claim for regularization has been rejected by the impugned order.

3. It is submitted by the learned counsel for the petitioners that rejection of the petitioners' claim is based on a wrong interpretation of the decision of Hon'ble Apex Court in the case of *Secretary, State of Karnataka & Ors. v. Uma Devi (3) & Ors.* reported in *(2006) 4 SCC 1*.

4. The petitioners claim parity with the respondents in *Civil Appeal Nos. 953-968 of 2005*, based on order dated 18-1-2011, passed by the Hon'ble Apex Court, copy of which is Annexure-4 to the petition. They have also sought direction restraining the respondent-Corporation for taking work from other persons, who have allegedly been allowed to work in place of the petitioners.

5. The petitioners claim that they were working in the different Branches of the respondent-corporation under the Muzaffarpur Division.

I. The petitioner nos. 1 to 5 claim that they



were working in the Raxaul Branch.

II. The petitioner nos. 6 to 9 claim that they were working in Bettiah Branch.

III. The Petitioner nos. 10 to 12 claim that they were working in Sitamarhi Branch.

IV. The Petitioner nos. 13, 14 and 19 claim that they were working in Laheriasarai Branch.

V. The petitioner nos. 15 to 18 claim that they were working in the Darbhanga Branch and

VI. The Petitioner no. 20 claims that he was working in the Sitamarhi Branch.

6. It is submitted by the petitioners' counsel that they have been working for a long time. The petitioners no. 1 claims to be working since 2010. The petitioner nos. 2, 4, 9 and 14 claim that they were working since 2003. The petitioner no. 3 claims that he was working since 1998. The petitioner no. 5 claims that he was working since 2011. The petitioner nos. 6 to 8 claim that they were working since 2008. The petitioners no. 11 to 13 claim that they were working since 2000. Petitioner no. 15 claims that he was working since 2009. The petitioners no. 16 claims that he was working since 2010. Petitioner nos. 17 and 19 claim that they were working since 2011. Petitioner no.



18 claims that he was working since 2012. The petitioner no. 20 claims that he was working since 2014.

7. It is the submission of the petitioners' counsel that based on message dated 4-2-2020 of the respondent no. 4 to all concerned Branches, the respondent-Corporation stopped taking work from the petitioners. It is submitted that other employees of the respondent-Corporation, similarly situated as the petitioners, were directed to be absorbed in the Corporation, subject to conditions as contained in order dated 18-1-2011, passed in ***Civil Appeal No. 953-968 of 2005***, passed by the Hon'ble Apex Court, however, the petitioners are not being extended the said benefit. Some persons working in the various offices within the Division of the respondent-Corporation have been absorbed, in terms of the order dated 18-1-2011 (*supra*).

8. The fact that petitioners were actually working as daily wagers, is apparent from report sent by the Branch offices under the Muzaffarpur Division, based on which a list of 55 such persons was sent, including petitioners. The same reflects the name of daily wagers, including the petitioners, as on 6-3-2012.

9. The petitioners also placed reliance of decision of the High Court of Orissa, Cuttack dated 18-2-2022 passed in



WP(c) No. 6076 of 2020, wherein the High Court has directed that the petitioners therein, who were similarly situated as the present petitioners shall not be discontinued from their services, nor their payment withheld.

10. It was in these circumstances that the petitioners also claimed absorption/regularisation in the Corporation, in the proceedings arising out of ***CWJC No. 5813 of 2020***. This Court, in the said proceedings, allowed the petitioners liberty to furnish detailed representation with their service particulars, so that the respondents may pass a speaking order on the petitioners' claim.

11. The petitioners thus pursued their detailed representation. It is alleged by learned counsel for the petitioners that ignoring these facts noted above their claim has wrongly been rejected by the respondent-Corporation under order dated 13-4-2022, passed by the Respondent No. 4.

12. Learned counsel for the respondent-Corporation, on the other hand, submits that petitioners are in no position to seek parity either with the beneficiaries of order dated 18-1-2011 passed in ***Civil Appeal No. 953-968 of 2005*** by Hon'ble Apex Court; or with the petitioners of ***WP(c) No. 6076 of 2020*** passed by the High Court of Orissa. The petitioners were engaged on a daily basis, as and when their services were



required in the branches. Such engagement was being done on minimum wages notified by the Ministry of Labour and Employment, or the State Government, whichever was higher from time to time. The petitioners were not engaged for any defined service under any rules of the Corporation. They have never been engaged against any sanctioned post. They, therefore, cannot claim parity. They cannot claim benefit of the decision in the case of *Uma Devi (supra)*.

13. The Respondent No. 4, showing due deference to the order dated 6-1-2022, passed by this Court in *CWJC No. 5813 of 2020*, earlier filed by the petitioners, has considered the petitioners' claim and rejected the same by a reasoned and speaking order. It does not require interference by this Court. The petitioners have not been able to establish parity. The petitioners have not been able to make out any case for regularisation or absorption.

14. On consideration of rival submissions, this Court finds that it is an admitted position from the averments made in the writ petition itself, that the petitioners have not worked in the respondent-Corporation since 3-2-2020. It is not the petitioners' case that they were ever appointed against any sanctioned post, or that they were employed after participating



in any process in compliance with Articles 14 and 16 of the Constitution of India. It is also not the petitioners' case that they have continuously been employed on a daily basis for 10 years or more. The petitioners, therefore, have not made out a case for being extended the benefits of decision in the case of *Uma Devi (supra)*.

15. Insofar as the decision of the Hon'ble Apex Court in *Civil Appeal No. 953-968 of 2005* is concerned, this Court would find that the Apex Court in the said decision has extended the benefits of absorption under the scheme formulated by the respondent-Corporation for the candidates who had taken the examination for recruitment as class-IV employees in the year 1996, subject to certain conditions of the scheme, which reads as follows:

"One time limited examination for those temporary persons who are working in LIC of India for more than five years and who had possessed minimum eligible qualification and age as prescribed at the relevant time of their entry into LIC of India would be considered. For this purpose, LIC of India will hold a limited written examination which will be in the vernacular language with a limited syllabus which will be announced in advance.

5. The successful short listed candidates shall be called for the interview. Such of those persons who are successful in the interview shall be initially appointed and posted anywhere in the respective Zone.

6. Such of those temporary employees who do not apply and



or not successful shall cease to be in the employment. It is clarified that those temporary persons who are not governed under these submissions, shall also cease to be in the employment.

7. Those who are recruited shall be governed by the rules as applicable to Class IV employees and they shall not be entitled to claim any other benefit regarding their past service rendered as temporary employees.

8. In so far as open market candidates who had appeared in the written test at the relevant time and who were successful in the same shall be called for interview along with temporary employees. Such of those persons who shall be successful in the interview shall be offered appointment and the conditions as applicable to temporary persons in so far as offer of appointment shall be applicable to the open market persons as well."

16. There is no averment in the writ petition that the petitioners are eligible in terms of the said terms and conditions. The petitioners thus are not in a position to claim parity with the beneficiaries of the Hon'ble Apex Court decision.

17. The petitioners are also not at par with the petitioners before the High Court of Orissa. This is for the simple reason that the petitioners before the High Court of Orissa had moved the Court, before they had been removed. They were continuing in the services of the Corporation, when the High Court passed the order that they may not be discontinued. The petitioners, as per their own case, have not worked since 3-2-2020.



18. The Court therefore finds that no case is made out by the petitioners for claiming regularisation/absorption. The consideration of Respondent No. 4 in the impugned order is a detailed consideration taking note of the fact that the petitioners were only engaged on daily basis as and when work was required. Their engagement was not against any sanctioned post and their engagement was not for any defined service on a continuous basis.

19. Consideration contained in the impugned order dated 13-4-2022, therefore, requires no interference by this Court, by invoking its extra ordinary and discretionary writ jurisdiction.

20. The writ petition is thus found to be devoid of merit and dismissed.

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.09.2023
Transmission Date	NA

