

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**PATNA BENCH, PATNA**  
**OA /050/00660/2016**

Reserved on 11.09.2019

Date of order : 26<sup>th</sup> Sept. 2019

**CORAM**

**HON'BLE MR. JAYESH V. BHAIRAVIA, MEMBER (J)**

**HON'BLE MR. DINESH SHARMA, MEMBER (A)**

1. Kishori Prasad, son of late ChaituPandit, resident of Mohalla – Sangat, Phulwarisharif, PO & PS – Phulwarisharif, District – Patna.
2. Md. Jahangir Alam, son of late Md. Shah Alam, resident of Imam Colony, Phulwarisharif, PO & PS – Phulwarisharif, District – Patna.
3. Birendra Yadav, son of late Rameshwar Yadav, resident of A.P. Road, Gaya, District – Gaya.
4. Kalimuddin, son of Qurban Ali, resident of Mohalla – Karbala Road, Phulwarisharif, PO & PS – Phulwarisharif, District – Patna.
5. Surendra Prasad Mahto, son of KestoMahto, resident of Mohalla – Sangat, Phulwarisharif, PO & PS – Phulwarisharif, District – Patna.
6. Sanjay Kumar, son of late Rampriti Thakur, resident of Mohalla – Indra Nagar, Postal Park, Road, No.2, PS – Jakanpur, District – Patna.
7. Subodh Kumar, son of Sri SarwanLalPandit, resident of Mohalla – Sultanpur, KoiriTola, DanapurCantt., P.S. – Danapur, District – Patna.
8. Sarwan Kumar, son of YogendraMahto, C/o Arbind Kumar, resident of SalimpurAhra, near Uma Cinema, Shiv SamudayikBhawan, Kadamkuan, P.S. Kadamkuwan, District – Patna.
9. Navneet Kumar, son of Ram Baba Singh, resident of Mohalla – Shivpuri, Anisabad, P.S. – Gardanibagh, District – Patna.
10. Shambhu Sharan, son of Kkaushal Kishore Choudhary, resident of Mohalla – ChoudharyTola, PO – Mahenbdru, PS- Sultanganj, District – Patna.
11. Babbua NandLalVishkarma, son of SohanVishkarma, resident of Mohalla Bairya, PO – Bairya, PS – Sampatchak, District – Patna.
12. Banty Kumar, son of Mahesh Ram, resident of Rupaspur, Bhattaper, Hanuman Nagar, PS – Rupaspur, District – Patna.

..... Applicant.

By advocate: Shri Gautam Bose.

Verses

1. The Union of India through the Secretary, Department of Post and Telecommunication, Government of India, New Delhi.
2. The Chief Postmaster General, Bihar Circle, Patna.
3. The Post Master General, Bihar Circle, Patna.
4. The Manager, Mail Motor Service, Department of Post, Patna.

..... Respondents.

By advocate: Shri Ravindra Rai

**ORDER**

**JAYESH V. BHAIKAVIA, MEMBER [JI]**-The applicants' prayer to allow them, in the facts and circumstances of the case, to join together and to file the OA and contest their grievance jointly which are common in nature, is allowed.

2. In the instant OA, the applicants have prayed for the following reliefs:-

*“8[1] The notification issued in Annexure-A-1 calling for the tenders from the Contractor for engaging Drivers/Cleaners on contract basis may be set aside.*

*8[2] The applicants may be bestowed with the temporary status and the respondents may be directed to pay the applicants at the minimum rate of wages, which is being paid at the Ranchi Division.*

*8[3] The respondents may be directed not to disengage these applicants from the job.*

*8[4] Any other relief or reliefs as your Lordships may deem just and proper in the facts and circumstances of the case may also be passed in favour of the applicants, which is found entitled to.*

*8[5] The cost of litigation may be awarded in favour of the applicants.”*

2. The applicants' case in short runs as follows : -

[i] The ld. Counsel for the applicants submitted that all the applicants were initially engaged as Driver in the year – 1990, 2006, 2007, 2011, 2012 and 2013 in the Department except applicant no.12, Banty Kumar, who was engaged as Sweeper in the year 2012 [Annexure-A/2] on daily wage basis @ Rs. 262/- per day for the Drivers and Rs. 206 for Sweeper/Cleaner.

[ii] The learned counsel for the applicants submitted that even today the applicants are being engaged by the Department of Post by work allotment order, vide Annexure-A/3 series.

[iii] The Id. Counsel for the applicants submitted that since the applicants are getting their wages much below the minimum wages as required under law, whereas the similarly situated persons in Ranchi Division are getting Rs. 363/- per day, therefore, they went on strike, vide Annexure-A/4. The applicants filed their representations before the Manager, Mail Motor Service, Patna GPO as well as the Secretary about their grievances that they are being paid @ Rs. 262/- per day, whereas the similarly situated persons at Ranchi Division, Jharkhand Circle are being paid at the rate of minimum scale of wages as permissible under the Central Government @ Rs. 363/- per day and also have been accorded temporary status and the same benefits have been denied by the respondents to the present applicants, vide Annexure-A/5.

[iv] The applicants on 18.05.2015 [Annexure-A/6] had also represented before the Hon'ble Communication Minister, Govt. of India, New Delhi about their grievance that they are getting Rs. 234/- only for 8 hours duty and Rs. 5.85 at the rate of extra hours duties, which is much below the minimum wages applicable to the Central Government employees.

[v] The applicants also brought to the notice of the Manager, Postal Service, Patna on 05.08.2015 and submitted that after meeting with them on 27.07.2015 it was decided that they would

also be paid the same as of the employees of Ranchi Division, which has been obtained under RTI Act [Annexure-A/7]. The applicants also brought to the notice of the letter dated 15.07.2016 which was issued under RTI wherein it is mentioned that a sum of Rs. 663/- is being paid per day to the Drivers working in the Postal Department of Ranchi.

[vi] The Id. Counsel for the applicants further submitted that the Assistant Director of the office of Chief Post Master General, Bihar Circle, Patna by letter dated 25.08.2016 [Annexure-A/9] addressed to the official of the department wherein it is stated that the persons who were completed three years continuous service were to be granted temporary status and they have to contribute the GPF. But now the department, vide the impugned order, Annexure-A/1, is willing to take the service of the Driver/Cleaner through Contractor and the applicants apprehend that their services may be disengaged or their services may not be taken after rendering such a long tenure, which is arbitrary and amounts to violation of Article 14 and 16 of the Constitution of India.

[vii] The Id. counsel for the applicants placed reliance on the judgment rendered in the case of State of Punjab &Ors. vs. Jagjit Singh and Ors. reported in [2017] 1 Supreme Court Cases 148, wherein the Hon'ble High Court held that principle of "equal pay for equal work" expounded through various decisions of Supreme Court constitutes law declared by Supreme Court, which is binding on all courts in India. The Id. Counsel further submitted that as such it is also applicable to temporary employees

performing the same duties and responsibilities as regular employees.

3. The respondents filed their written statement and contested the case, as under : -

[i] The case of the applicants in brief is that the daily wages drivers were engaged on daily rated basis in the Department [MMS] as same were required for the operation of Schedule due to shortage of drivers on account of death/retirement, vide Annexure-A and were paid at the rate prescribed as per Bihar Government Labour Commission.

[ii] The respondents submitted that since the applicants are not the employee of the Department and are working only on daily wages basis, their grievance should not be entertained by the Tribunal and the OA may be dismissed.

[iii] The respondents submitted that so far the payment of similarly situated persons at Ranchi Division at the rate of 363/- per day is concerned, payment is being made on the basis of rate prescribed under Jharkhand Government Labour Commission and payment at Patna is being made on the basis of Bihar Government Labour Commission, therefore, rate of Ranchi is not at all acceptable at Patna [Bihar].

[iv] The respondents further submitted that since the applicants went on strike, the department had no other remedy but to make some arrangements so that the service would not have affected. That apart, there was an audit observation that outsourcing of manpower should be done through tender process.

[v] It is further submitted that as and when the respondents required temporary service of the applicants as per the necessity, they have been offered work for limited period/time and as per the work/service performed by such applicants as daily wager, are being paid for work taken by them as per Bihar Government Labour Commission's rate. The respondents also submitted that temporary status cannot be granted to the applicants as they are working in State of Bihar. The respondents have further submitted that since the applicants are putting their unlawful demand before the respondents, therefore, the outsourcing of manpower was necessary till filling up the post on regular basis. In view of the aforesaid submissions, the respondents submitted that this OA deserves to be dismissed.

4. Heard the learned counsel for the parties and gone through the materials on record.

5. The Tribunal noticed that all the applicants were initially engaged as Driver in the year – 1990, 2006, 2007, 2011, 2012 and 2013 in the Department except applicant no.12, Banty Kumar, who was engaged as Sweeper in the year 2012 [Annexure-A/2] on daily wage basis @ Rs. 262/- per day for the Drivers and Rs. 206 for Sweeper/Cleaner. It is further noticed that the applicants are still being engaged by the department of posts as and when their services required in the department.

6. The main grievance of the applicants that they are not being paid minimum rate of wages which is being paid by the Ranchi Division. The said claim of the applicants is not tenable for the

reason that the applicants are performing their duties as Daily Wager in the State of Bihar and they are only entitled to get minimum wages prescribed by the Bihar Government Labour Commission. Further, so far relief prayed for grant of temporary status to the applicants is concerned and direction, at present we are not inclined to entrain the said claim, since it is the prerogative of the respondents to implement the policy for grant of temporary status to the casual labourers in terms of the policy in vogue. The prayer sought for by the applicants to quash and set aside the advertisement [Annexure-A/1] issued by the respondents inviting tenders from the contractor for engaging drivers/cleaners on contract basis is also not tenable since the said action is purely within the domain of the respondents, and such administrative action cannot be interfered by this Tribunal in absence of any violation of statutory provisions. However, if the applicants are being still offered work or engaged as daily wager by the respondents, they may continue to do so, subject to satisfaction of the respondents.

7. In view of the above observations, this OA stands disposed of. No costs.

**Sd/-**

**[ Dinesh Sharma ]/M[A]**

**mps**

**Sd/-**

**[ Jayesh V. Bhairavia ]/M[J]**

