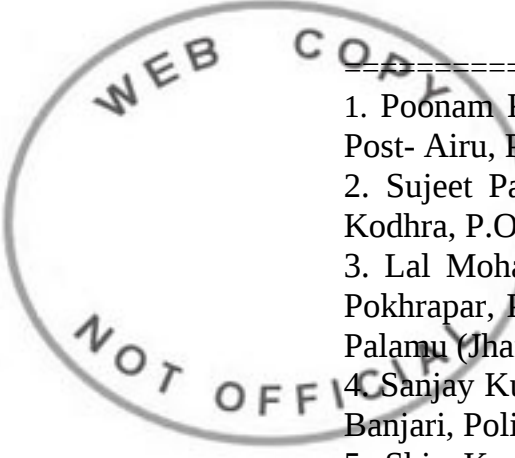


IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.743 of 2015

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1. Poonam Kumari, daughter of Sri Pratma Singh ,resident of Village and Post- Airu, Police Station - Sahjanhapur, District - Patna (Bihar)
 2. Sujeet Paswan son of Sri Ram Swarup Paswan, Resident of Village - Kodhra, P.O. - Mouri, Police Station - Paliganj, District - Patna (Bihar)
 3. Lal Mohan Thakur son of Sri Rajendra Thakur, Resident of Village - Pokhrapar, P.O. - Ktajrat Nawadih, Police Station - Hussainabad, District - Palamu (Jharkhand)
 4. Sanjay Kumar son of Shamlal Rai, Resident of Village - Baknaira, P.O. - Banjari, Police Station - Rohtas, District - Rohtas
 5. Shiv Kumar Sahni son of Mr. Ram Surat Sahni, Resident of Village - Vagapakar Murli, P.O. - Dariyapur Vada, Police Station - Harsidhi, District - Motihari (Bihar)
 6. Anuj Kumar son of Ramji Prasad, Resident of Village - Dhrampur, P.O. & P.S. - Hulasganj, District - Jehanabad (Bihar)
 7. Akhtar Hussain Khan son of Late Md. Raja Khan, Resident of Village - Chiribabad, Post- Piru Via-Haspura, District - Aurangabad (Bihar)
 8. Md. Ekhteyarul Haque son of Late Md. Badrul Haque Ansari, Resident of Village - Dumduma, P.O. - Laheria Sarai, District - Darbhanga (Bihar)
 9. Surendra Mahto son of Sri Pandit Mahto, Resident of Village - Takenpura, Post - Dapharpur, Police Station - Nawkothe, District - Begusarai (Bihar)
 10. Sanjay Kumar Patel son of Jay Mangal Patel, Resident of Village and Post - Jahangirpur Salkhanni, Police Station - Mahua, District - Vaishali (Bihar)
 11. Md. Badruddin son of Late Md. Habib, Resident of Village - Paharpur near at Masjid Post - Anisabad, Police Station - Gardanibagh, District - Patna (Bihar)
 12. Mukul Prasad son of Damodar Prasad, Resident of Village - Chakauri Bigha, Post - Banarsi Bigha, Police Station - Silao, District - Nalanda (Bihar)
 13. Manoj Kumar Chaudhary son of Sukhdeo Chaudhary, Resident of Village and Post - Krishnapur Baikunth, Police Station - Varisnagar, District - Samastipur (Bihar)
 14. Vikash Kumar son of Sri Bhola Ram, Resident of Village and Post - Kanti, Police Station - Kanti, District - Muzaffarpur (Bihar)
 15. Sanjay Chaudhary son of Late Shivadhar Choudhary, Resident of Village and Post - Pawan, District - Bhojpur (Bihar)
 16. Mishri Saphi son of Sri Dev Narayan Saphi, Resident of Village and Post- Thakar, Police Station - Khajauli, District - Madhubani (Bihar)
 17. Abdul Kadir son of Md. Moinuddin Ansari, Resident of Village - Sigari, P.O. and P.S. - Sigari, District - Patna (Bihar)
 18. Ramesh Kumar son of Late Shyamdeo Manjhi, Resident of Village - Pathra Dakshin, Police Station - Manjhagarh, District - Gopalganj (Bihar)
 19. Alok Kumar son of Late Prasad Sah, Resident of Mohalla - Dhantoliya

Ward No. 33 Pani Tanki P.O. and P.S. - Dehri on Sone, District - Rohtas (Bihar)

20. Saroj Kumar Nirala son of Shiv Bachan Ram, Resident of Village and Post - Ratanpur, Police Station - Muffasil Ara, District - Bhojpur (Bihar)

21. Anil Kumar Poddar son of Late Ram Prasad Poddar, Resident of Mohalla - Dujra, Police Station - Buddha Colony, District - Patna (Bihar)

22. Arun Ram son of Sri Lakhan Ram, Resident of Village / Mohalla - New Police Line, Post Office - Lodipur, Police Station - Buddha Colony, District - Patna (Bihar)

23. Vanmjay Prasad Singh son of Sri Doman Singh, Resident of Village - Tareya, P.O. - Bara, Police Station - Belhar, District - Banka (Bihar)

24. Bihari Babu son of Sri Garden Mistri, Resident of Village - Rajapur Mainpura, Makhan Company Lane, P.O. and G.P.O. - P.S./Patliputra, District - Patna-1 (Bihar)

25. Santosh Paswan son of Sri Lakhi Paswan, Resident of Village and Post Office - Kanti, Police Station - Kanti, District - Muzaffarpur (Bihar)

26. Ravindra Kumar Sharma son of Pramod Sharma, Resident of Village - Babu Muhalla, P.O. and P.S. - Mahna, District - Vaishali (Bihar)

27. Bablu Mandal son of Dhunni Mandal, Resident of Village - Faridpur, P.O. - Hakidalpur, Police Station - Kharik, District - Bhagalpur (Bihar)

28. Mantosh Kumar son of Sri Upendra Sharma, Resident of Village - Navtoli, P.O. - Parwa, Police Station - Murliganj, District - Madhepura (Bihar)

29. Md. Azaharuddin Ansari son of Nizamuddin Ansari, Resident of Village and Post - Bagar, Police Station - Sikarhatta, District- Bhojpur (Bihar)

30. Sandeep Sharma son of Sri Bhushan Sharma, Resident of Village - Tilari, P.O. - Karmathu, Police Station - Guraru, District - Gaya (Bihar)

31. Amzad Parvej son of Md. Iftekhhar Ahmad, Resident of Village and Post - Daulatpur, Police Station - Muffasil, District - Bhojpur (Arrah), Bihar

32. Amarjeet Sah son of Late Jiut Sah, Resident of Village and Post - Sansar, Police Station - Muffasil, District - Siwan (Bihar)

33. Ram Kumar Sah son of Late Ram Vagar Sah, Resident of Village - Harsinghpur Tarri, P.O. - Bhaghatpur, Police Station - Sarai Ranjan, District - Samastipur (Bihar)

34. Satendra Kumar Gupta son of Sri Bhanu Sah, Resident of Village and Post - Nowan , Police Station - Bikramganj, District - Rohtas (Bihar)

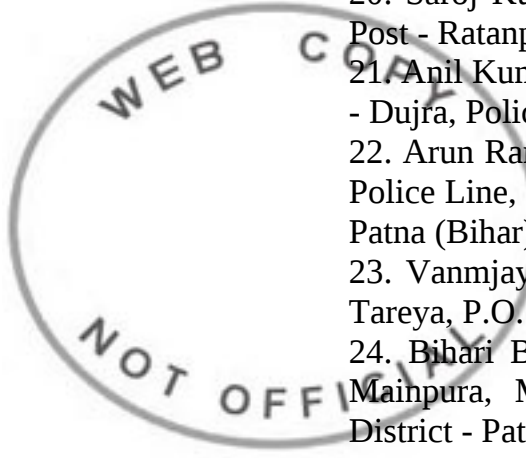
35. Manoj Kumar son of Ramjatan Singh, Resident of Village - Mokam Bigha, Post - Aatiyana, Police Station - Ghoshi, District - Jehanabad (Bihar)

36. Harendra Prasad son of Asrafari Prasad, Resident of Village - Murgiyani P.O. - Khajuri, Police Station - Kuchaikot, District - Gopalganj (Bihar)

37. Jaysurat Yadav son of Shri Jawahar Yadav, Resident of Village - Kawriya, Post - Kawariya, Police Station - Sadar, District - Darbhanga (Bihar)

38. Chandni Kumari daughter of Late Shyam Babu Pandit, Resident of Village - Simli Bundel Toli, Police Station - Malsalami, District - Patna (Bihar)

39. Amit Kumar son of Sri Arvind Prasad Singh, Resident of Village - Bhagwanpur Ratti, P.O. - Balukaram, Police Station - Vaishali, District -



Vaishali (Bihar)

40. Alok Kumar son of Sri Suresh Thakur, Resident of village and post - Manikpur Pakri, Police Station - Lalganj, District - Vaishali (Bihar)

41. Md. Shabbir Ali son of Md. Subhan, Resident of Village - Abumhammadpur, P.O. and P.S. - Bakhtiyarpur, District - Patna (Bihar)

42. Ramakant Yadav son of Sri Baleshwar Yadav, Resident of Village and Post - Gariba Tola (Sitab Diyara), Police Station - Rivilganj, District - Saran (Bihar)

43. Holi Sah son of Mr. Bangali Sah, Resident of Village - Thobopur Tola, P.O. - Krishnapur, Baikunth, Police Station - Hayaghat, District - Darbhanga (Bihar)

44. Md. Nsar Alam son of Late Md. Basiruddin, Resident of Village - Bhada, P.O. - Barsam, Police Station - Sour Bazar, District - Saharsa (Bihar)

45. Vikash Kumar Mandal son of Ashok Mehta, Village - Badi Ashiquepur, P.O. - Jamalpur, Police Station - East Colony, District - Munger (Bihar)

46. Md. Sajio son of Md. Raish, Resident of Village - Minahaj Nagar Phulwari Sharif, District Patna (Bihar)

47. Yogendra Das son of Sri Arjun Das, Resident of Village/Mohalla - Saderha, Post - Raniganj, Police Station - Imamganj, District - Gaya

48. Sudeep Jha son of Duganath Jha, Permanent address : 145 Anandpuri West Boring Canal Road, Police Station - Krishnapuri, District - Patna (Bihar)

49. Sudhir Kumar son of Jai Ram Mehta, Resident of Village - Gaur Bigha, Post - Mallickpur, Police Station - Rajgir, District - Nalanda

.... Petitioner/s

Versus

1. The State of Bihar through the Home Secretary (Police) Government of Bihar, Patna

2. The Home Secretary (Police), Government of Bihar, Patna

3. The Deputy Secretary, Home (Police) Department, Government of Bihar, Patna

4. The Director General of Police, Government of Bihar, Patna

5. The Inspector General of Police (Expedition) Special Task Force, Government of Bihar, Patna

6. The Under Secretary Home (Police), Government of Bihar, Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Arbind Kumar Singh

For the Respondent/s: Mr. Kritya Nand Jha, AC to SC 29

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 29-10-2015



49 petitioners have joined together in this common writ application seeking quashing of letter dated 26.10.2012 (Annexure-4) since by this notification issued by the Home (Police) Department, Government of Bihar, the respondent authorities have decided to take away the benefit of special allowance which was 30 per cent of the basic pay. Since this notification creates discrimination within the force, petitioners want the said notification to be quashed.

2. Way back on 18/8/2000, the Government of Bihar issued Anneuxre-1 and created a Special Task Force (hereinafter to be referred as STF). This was a specially constituted organization in the police to fight the threat of Left Organization, Personal Army of Landlords, Organized Criminal Groups and criminal elements, who resorted to violence against scheduled castes and scheduled tribes and women in the State of Bihar. 15 Companies were put in place and the posts sanctioned would be evident from reading of Anneuxre-1 or para 6 of the writ application.

3. Learned senior counsel for the petitioners draws the attention of the Court that due to the element of high risk involved in the duties and task assigned to the members of the STF, a conscious decision was taken by the Home (Police) Department, Government of Bihar, to grant benefit of special allowance to the extent of 30 per cent of the basic pay with maximum of Rs.1000/- to all the employees of



the Task Force including Class III and IV except Accountants who were posted on deputation. Annexure-3 is the notification, which is dated 25.01.2008. The object and reason for extending such a privilege is indicated in the said notification itself. Allocation of fund was also made.

4. After issuance of notification, contained in Annexure-3, dated 25.1.2008, the employees continued to derive benefit without any let or hindrance for more than four years. But all of a sudden, by a unilateral decision the State Government decided to curtail the said benefit by issuing Anneuxre-4. It is not that the special allowance has been totally withdrawn across the board. The privilege still subsists except for the holders of 12 posts which includes the petitioners who have been taken out from the benefit conferred in terms of Annexure-3.

5. Since most of the petitioners belong to the same category of employees, they have approached the Court for quashing of Anneuxre-4.

6. Learned senior counsel representing the petitioners submits that Anneuxre-4 violates Articles 14 and 16 of the Constitution of India. There is no rationale as to why a class of employees indicated in Anneuxre-4 should be treated separately and a class amongst class of Special Task Force should be created to the

detriment of a part of the employees.

7. At no point of time, the petitioners were given an opportunity to place their case before the respondents before such a vital decision, having civil consequences, came to visit them.

8. Petitioners have also annexed a decision rendered by a learned Single Judge of the High Court of Jharkhand at Ranchi, where a similar decision came to be challenged and such a decision was interfered with by the Court. A copy of the said decision is Annexure-5.

9. With due respect petitioners cannot derive benefit of the decision of the Jharkhand High Court for the reason that it has been based on different set of facts and logic. The facts not being similar, the rationale and reasoning of Annexure-5 cannot apply to the present dispute.

10. The stand taken in the counter affidavit of respondents No.1 and 2 is that a proposal was mooted for creation of 25 additional units of STF. The proposal was initiated at the level of D G of Police i.e. Annexure-A. Based on such a proposal 1172 posts were proposed to be created for the 25 units of STF. However, it was reduced to 1167. The matter was considered by various departments and the Government came to a considered opinion that not all personnel of STF should be given the benefit of special allowance. It should be



limited to such personnel who are performing special duty. The department decided that the class of employees, numbering 12, were not involved in the actual combat operation. Therefore, they need to be treated differently than the members of the STF who are involved in actual operation. The State authorities considered all the aspects of the matter and as a policy decision Anneuxre-4 was issued.

11. Even an affidavit on behalf of the S P, STF has been filed, who takes a plea that the decision taken by the State is in keeping with the actual work rendered by such employees and their involvement in performance of the task and object for which STF was created.

12. If Anneuxre-3 and Annexure-4 are read together then it is evident that the reason and object for which special allowance was notified in terms of Anneuxre-3 still subsists. Annexure-3 was issued after due consideration because the said notification itself gives the rationale and reason for extending such benefit to the members of the STF. That position in no manner has changed or altered itself. The dilution which has been made by the respondents by issuing Annexure-4, in the opinion of the Court violates Articles 14 and 16 of the Constitution of India.

13. The fine distinction sought to be created by the State authorities as to the justification for taking away the benefit does not



satisfy the requirements of creating a class amongst a class. The STF has been created as a special force. The nuts and bolts put together achieve the objective for which such a force was created. The said force cannot deliver in bits and pieces. The force has to work as a composite whole. There cannot be a fine-distinction that certain set of employees are involved in actual combat operation whereas some others not. In fact, being a member of the Special Task Force itself makes them a class different from the class of the regular police force and because of the onerous risk factor involved in performance of such duties the State Government decided to give encouragement and a kind of social security for the high risk job. The force therefore cannot be divided on the basis of nature of duty being performed by the individuals.

14. The Court therefore is not satisfied with the rationale and reason given by the State Government for taking away the privilege which subsisted for more than 4 years. The only object and purpose for issuance of Annexure-4 seems to somehow reduce the financial burden of the State and may be to preempt any disquiet, which may emerge from similar demands from the police force or employees.

15. In totality, therefore, Annexure-4 has been issued which does not satisfy the requirement of Articles 14 and 16 of the

Constitution of India. The State Government cannot create a class amongst class for grant of benefits on the basis of so-called nature of duty performed by the holder of posts when these petitioners are part and parcel of the composite force, which was created by the State for special reason and purpose.

16. Writ application is allowed. Annexure-4 dated 26.10.2012 is quashed.

17. Petitioners will continue to derive benefit as per Annexure-3.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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