

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 7082 of 2016

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1. Ram Pravesh Singh, Son of Late Babu Ram Singh, resident of village Andar Dhalakshminagar, Siwan, P.O.+ P.S.+District- Siwan.
 2. Srikant Bhakt @ Srikant, Son of Sri Ram Bilash Bhakt, resident of village Shankarpur, P.O. Bardhan, P.S. Asawn, District- Siwan.
 3. Kanhaiya Pandit, Son of Late Ram Nagina Pandit, resident of village Lohgajar, P.O. Chhitapur, P.S. Asawn, District- Siwan.
 4. Akhileshwar Prasad, Son of Srikrishna Prasad, resident of village Shivpursakra, P.O. Shivpursakra, P.S. Asawn, District- Siwan.
 5. Fulmangan Ram, Son of Late Kapil Ram, resident of village English, P.O. English, P.S. Mairwa, District- Siwan.
 6. Bireshwar Prasad Yadav, Son of Late Laxmi Prasad Yadav, resident of village Gareriya, P.O. Mudera, P.S. Guthani, District- Siwan.
 7. Paramhansh Tiwary, Son of Late Harihar Tiwary, resident of village Tiwari Bhatkan, P.O. Narendrapur, P.S. Andar, District- Siwan.
 8. Suresh Kumar Singh, Son of Late Dharamnath Singh, resident of village Harpur Kotwa, P.O. Tarwa Parsa, P.S.- M.H. Nagar, District- Siwan.
 9. Vijay Bahadur Harijan, Son of Dharikshan Harijan, resident of village Karnai, P.O. Darauli, P.S. M.H. Nagar, District- Siwan.
 10. Bachcha Dubey, Son of Late Brahmdeo Dubey, resident of village Nepura, P.O. Dumarhar Khurd, P.S. Darauli, District- Siwan.
 11. Jahid Hussain Ansari, Son of Late Mahmad Hussain, resident of village Pachbaniya, P.O. Kashila, P.S. Darauli, District- Siwan.
 12. Rambachan Yadav, Son of Manager Yadav, resident of village Madhesilapur, P.O. Andar, P.S. Andar, District- Siwan.
 13. Suraj Narayan Singh, Son of Daroga Singh, resident of village Shivpur Sakra, P.O. Awawn, P.S. Andar, District- Siwan.
 14. Dhruv Narayan Singh, Son of Late Sahdeo Singh, resident of village Nayanpura, P.O. Nayanpura, P.S. Pachrukhi, District- Siwan.
 15. Ashok Kumar Rai, Son of Bachcha Prasad Rai, resident of village Titra, P.O. Titra, P.S. Jiradai, District- Siwan.
 16. Surendra Singh Son of Late Nagendra singh, resident of village Bakhari, P.O. Bakhari, P.S. Siswan, District- Siwan.
 17. Md. Nasrullah, Son of Md. Noor Alam, resident of village Krishnapali, P.O.



- Darauli, P.S. Darauli, District- Siwan.
18. Umesh Chandra Srivastava, Son of Late Bishwanath Srivastava, resident of village Shahpur, P.O. Shahpur, P.S. Nawtan, District- Siwan.
 19. Sadiki Hussain Ansari @ Sadiki Hussain, Son of Late Md. Abdul Kadir, resident of village - Semriya, P.O. Semariya, P.S. Nawtan, District- Siwan.
 20. Smt. Bina Singh, D/o Sri Dinesh Kumar Rai, resident of village Kushaudhi, P.O. Kurshaudhi, P.S. Nawtan, District- Siwan.
 21. Binod Kumar Ram, Son of Raushan Ram, resident of village Bhikhpur, P.O. Chainpur, P.S. Nawtan, District- Siwan.
 22. Laldeo Ram, Son of Hiranman Ram, resident of village Sarhara, P.O. Sarhara, P.S. and District- Siwan.
 23. Satyadeo Sah, Son of Late Hira Sah, resident of village Dohar, P.O. Dohar, P.S. Ekma, District- Saran.
 24. Hareram, Son of Sri Monu Ram, resident of village Ambedkar Nagar, P.O.+P.S.+District- Siwan.
 25. Sunil Kumar Singh, Son of Sri Hareram Singh, resident of village and P.O. Darauli, P.S. and District- Siwan.
 26. Srikant, Son of Birendra Singh, resident of village Piprahiya, P.O. and P.S. Andar, District- Siwan.
 27. Ravindra Singh, Son of Late Indrasan Prasad, resident of village Thepah, P.O. and P.S. Thepha, District- Siwan.
 28. Bishwanath Prasad, Son of Late Khedan Prasad, resident of village Shuklatoli, P.O., P.S. and District- Siwan.
 29. Gautan Sharma, Son of Late Durga Prasad, resident of village Barhai Tola, P.O.+P.S.+ District- Siwan.
 30. Bashishta Narayan Mishra, Son of Late Laxman Mishra, resident of village Mahadeva, P.O. + P.S. + District- Siwan.
 31. Ramayan Singh, Son of Late Bacha Singh, resident of village and P.O. Andar, P.S. and District- Siwan.
 32. Narendra Rai, Son of Ram Bahadur Rai, resident of village Khalwa, P.O. Nawtan, P.S. Nawtan, District- Siwan.
 33. Hridayanand Singh, Son of Late Basudeo Singh, resident of village Mudera, P.O. Mudera, P.S. Nawtan, District- Siwan-
 34. Brajesh Chaudhary, Son of Rajendra Chaudhary, resident of village Shelaaur P.O. Shelaaur, P.S. Guthani, District- Siwan.



35. Ramakant Chaudhary, Son of Late Fuleni Chaudhary, resident of Makriyar, P.O. Makriyar, P.S. and District- Siwan.
36. Ajit Kumar, Son of Sukhdeo Yadav, resident of village Pithauri, P.O. Aghaila, P.S. and District- Siwan.
37. Arvind Kumar, Son of Gauri Shankar Prasad, resident of village Sigahi, P.O. Hussainganj, P.S.- Hussainganj, District- Siwan.
38. Kanhaiya Pandey, Son of Late Indradutt Pandey, resident of village Balua, P.O. Mathiya, P.S.- Andar, District- Siwan.
39. Ram Kripal Dubey, Son of Brahmdeo Dubey, resident of village Nepura, P.O. Dumrahar Khurd, P.S. Darauli, District- Siwan.
40. Vidyabhushan Singh, Son of Late Ramashankar Singh, resident of village- Kanhauli, P.O.- Kanhauli, P.S.- Darauli, District- Siwan.
41. Gajadhar Harijan, Son of Late Jhagaru Harijan, resident of village- Kanhauli, P.O.- Kanhauli, P.S.- Darauli, District- Siwan.
42. Hrishikesh Pandey, Son of Late Manohar Pandey, resident of village Khudra, P.O. Khudra, P.S.-and District- Siwan.
43. Chandrashwar Ram, Son of Late Khublal Ram, resident of village Kumhati, P.O. Khumhati, P.S. Darauli, District- Siwan.
44. Ram Ekbal Singh Son of Late Musafir Singh, resident of village Sahasrao, P.O. Asawan, P.S.- Andar, District- Siwan.
45. Raj Kishore Prasad, Son of Late Kswhi Prasad, resident of village Gadar, P.O. Hussainganj, P.S.- Hussainganj, District- Siwan.
46. Vajid Hussain Ansari, Son of Md. Hussain Ansari, resident of village Pachbaniya, P.O. Kashila, P.S.- Darauli, District- Siwan.
47. Saheb Hussain Ansari, Son of Abid Hussain Ansari, resident of Nikhtikala, P.O. Nikhtikala, P.S.- Siswan, District- Siwan.
48. Sriram Chaudhary, Son of Late Budhan Chaudhary, resident of village Ruiya, P.O. Ruiya Bangra, P.S.- Jiradai, District- Siwan.
49. Hira Lal Prasad, Son of Shivpujan Prasad, resident of village Sisahani, P.O. Sisahani, P.S.- Jiradai, District- Siwan.
50. Janakdeo Singh, Son of Late Bhajan Singh, resident of village Sachipur, P.O. Pachokhar, P.S.- Andar, District- Siwan.
51. Narvadeshwar Dwivedi, Son of Late Kedarnath Dwivedi, resident of village Manpur Pateji, P.O. Asawan, P.S. Andar, District- Siwan.
52. Ramtapeshwar Pathak, Son of Late Harishankar Pathak, resident of Barwa, P.O.



Asawan, District Andar, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Education Officer, Siwan.
3. The District Programme Officer (Establishment), Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Sharma, Advocate.
Mr. Bipin Bihari Singh, Advocate.
For the Respondent/s : Mr. Dr. Anil Kumar Upadhyay, SC-2
Mr. Anurag Saurav, AC to SC-2.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 06-04-2017

Heard learned counsel for the petitioners and the State.

2. The petitioners have moved the Court for quashing of order contained in Letter No. 1931 dated 24.06.2015, passed by the respondent no. 3, by which the promotion given to them in Graduate trained scale has been cancelled and order has been made for recovery.

3. Learned counsel for the petitioners submitted that in the year 2011, they were granted promotion on the basis of being Matric trained and having completed 24 years of service and thereafter in the year 2013, on the basis of them being Graduate trained, further financial benefits was granted to them. Learned counsel submitted that the said two increments in their emoluments



were granted after the duly constituted Committee recommended their case and which was accepted by the Competent Authority. Learned counsel submitted that payment was also made and only because of objection raised by the Accountant General, the same has been withdrawn and recovery ordered. Learned counsel relied upon decisions of the Division Benches of this Court in the case of **State of Bihar v. Ram Sharan Prasad Singh** reported as **2007(Supp.) PLJR 223** as well as **State of Bihar vs. Rajendra Prasad Shrivastava** reported as **2016 (3) PLJR 509**, for the proposition that if without any laches or misrepresentation on the part of the petitioners, monetary benefits have accrued and payment made, the same cannot be recovered.

4. Learned counsel for the State submitted that in view of the objection raised by the Accountant General, they have also found that the objection was correct and the second Graduate trained benefit was wrongly granted to the petitioners.

5. Having considered the rival contentions, this Court finds that the order needs interference partly. The benefit given to the petitioners on account of a duly constituted Committee having approved such payment and benefits also derived by them and payment made, there cannot be any recovery as there was no fault, laches or misrepresentation on their part. That is one aspect of the



matter. The other aspect of the matter is that if a *bona fide* mistake has been committed by the Authorities, they are always at liberty to correct the same but, it can only be done prospectively.

6. For the reasons aforesaid, the authorities directing for recovery of the amount already paid to the petitioners is set aside. However, the State shall be at liberty to notionally rectify their salary, as per their entitlement, prospectively, either re-fixing their pensionary benefits or if they are in service, for payment to them henceforth after re-fixing their salary/emoluments.

7. The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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