

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9400 of 2018

1. Upendra Singh Son of Sri Kanhaiya Singh Resident of Village- Purwan, P.O. and P.S. Brahmpur, District- Buxar.
2. Umesh Kumar Yadav Son of Sri Badri Yadav Resident of Village and P.O. Barka Rajpur, P.S. Simri, District- Buxar.
3. Shyam Chhetri Son of Sri Gopal Chhetri Resident of Mohalla- Sheikhpura, P.O. Bihar Veterinary College, P.S. Hawaii Adda, District- Patna.
4. Sanjay Adda Son of Sri Bali Narayan Yadav Resident of Village and P.O. Chakki, P.S. Brahmpur, District- Buxar.
5. Sanam Tamang Son of late Ganga Ram Tamang Resident of Village- Mosling(Salua), P.S. Kharagpur(Local), District- West Mednipur(West Bengal).
6. Binod Kumar Son of Sri Baban Singh Yadav Resident of Village- Kulharia, P.S. Buxar Muffasil, District- Buxar,.
7. Shankar Thapa Son of Sri Bahadur Jang Thapa Resident of Bihar Military Police-1, P.O Bihar Veterinary College, P.S. Hawaii Adda, District- Patna.
8. Markandey Singh Son of Sri Lal Bihar Singh Resident of Village and P.O. Sonpa, P.S. Rajpur, District- Buxar.
9. Chandan Bahadur Thapa Son of Sri Man Bahadur Thapa Resident of Orissa Military Police, 2nd Battalion, Jhar Sgra, P.O. and P.S. Orissa Military Police , District- Jhar Sugra (Orissa).
10. Chin Bahadur Thapa Son of Sri Ram Bahadur Thapa Resident of Jharkhand Armed Police-1, Line, P.O. and P.S. Doranda, District- Ranchi(Jharkhand).
11. Bablu Gurung Son of late Tek Prasad Gurung Resident of Jharkhand Armed Force Police -1, Line, P.O. and P.S. Doranda, District- Ranchi(Jharkhand).
12. June Bahadur Rana Son of late Tek Bahadur Rana Resident of Orissa Armed Police, 2nd Battalion, Jhar Sugra, P.O. and P.S. Orissa Armed Police, P.S. Jhar Sugra, District- Jhar Sugra(Orissa).
13. Ramesh Ram Son of Sri Asharfi Ram Resident of Village- Baruara, P.O. Kusauthar, P.S. Bahadurpur, District- Darbhanga.
14. Bipin Bihari Yadav Son of Sri Ram Pravesh Yadav Resident of Village- Jagdishpur, P.O. Nadaw, P.S. Buxar, District- Buxar.
15. Raja Chhetri Son of Sri Shyam Kumar Chhetri Resident of Bandhu Apartment, Near Vigyan Kendra, P.O. and P.S. Bariatu, District- Ranchi(Jharkhand).
16. Bal Bahadur Pune Son of Sri Min Bahadur Pune Resident of Orissa Armed Police, 2nd Battalion, Jhar Sugra, P.O. and P.S. Orissa Armed Police, P.S. Jhar Sugra, District- Jhar Sugra(Orissa).
17. Santosh Kumar Yadav Son of Sri Bhimsen Prasad Yadav Resident of Village- Sengar Tola, P.O. and P.S. Rivilganj, District- Saran at Chapra.
18. Rajesh Kumar Prasad Son of Sri Madan Prasad Resident of Village and P.O. Mandrauli , P.S. M.N., Nagar Hasanpur, District- Saran at Chapra.
19. Ramesh Kumar Yadav Son of Sri Jagdish Yadav Resident of Village and P.O. Bhawalpur, P.S. Marhaura, District- Saran at Chapra.
20. Pradeep Singh Son of Sri Chirendra Singh Resident of Village- Dharohi, P.O. Chausa, P.S. Buxar Muffasil, District- Buxar.
21. Vishnu Bahadur Chhetri Son of Sri Hari Bahadur Chhetri Resident of Jail Camp, P.O. Bihar Veterinary College, P.S. Hawaii Adda, District- Patna.
22. Marsi Muktan Son of Sri Dhan Bahadur Resident of Jharkhand Armed Force-1, P.O. and P.S. Doranda, District- Ranchi.
23. Ratnesh Kumar Yadav Son of Sri Dinanath Yadav Resident of Village and P.O.



Amarpur Tole, P.S. Darauli, District- Siwan.
24. Gopal Sharma Son of Sri Ram Kishun Singh Resident of Village- Dawthu, P.O. Gangapur, P.S. Ulla Hasganj, District- Jehanabad.
25. Mantu Lal Son of Sri Dhan Bahadur Magar Resident of Village- Dawthu, P.O. Gangapur, P.S. Ulla Hasganj, District- Jehanabad.
26. Gyanendra Jang Shah Son of Sri Home Jang Shah Resident of Bihar Military Police-1, P.O Bihar Veterinary College, P.S. Hawaii Adda, District- Patna.
27. Animesh Kumar Kewat Son of Sri Sahdeo Kewat Resident of Village- Pathla, P.O.and P.S. Lakhisarai, District- Lakhisarai.
28. Upendra Kumar Chaubey Son of Sri Ram Kishun Chaubey Resident of Village- Jarigawan, P.O. Karhansi, P.S. Buxar Muffasil, District- Buxar.
29. Satish Bahadur Son of late Bhim Bahadur Resident of Raniganj Raj Para, Near Mangla Mandir ,P.O. and P.S. Raniganj, District- Bardhman(West Bengal).
30. Ajit Kumar Singh Son of Sri Pushpendra Singh Resident of Village- Mathwaliya, P.O. Daulatpur, P.S. Ara Muffasil, District- Bhojpur at Ara.
31. Santosh Kumar Thakuri Son of late Yashbir Singh Thakuri Resident of Singara Asthan, Police Station, P.O. and P.S. Rampur, District- Gaya.
32. Sushil Kumar Son of Sri Jag Narayan Chaudhary Resident of Village- Bhadsari, P.O. Bhada, P.S. Bagen, District-Buxar.
33. Suresh Thapa Magar Son of Sri Bharat Thapa Magar Resident of Bihar Military Police-1, P.O Bihar Veterinary College, P.S. Hawaii Adda, District- Patna.
34. Tapan Kumar Gurung Son of Sri Tula Ram Gurung Resident of Bihar Military Police-1, P.O Bihar Veterinary College, P.S. Hawaii Adda, District- Patna.
35. Tek Bahadur Rana Son of Sri Dil Bahadur Rana Resident of Village- Koribari(Milan Road), P.O. Champasari, P.S. Pradhan Nagar, Siliguri, District- Darjiling(West Bengal).
36. Rajiv Kumar Singh Son of Sri Narendra Singh Resident of Village- Bawana Ganda, Jalalpur,P.S. Daraunda, District- Siwan.
37. Ajay Kumar Son of Sri Budh Bahadur Resident of Quarter No. 11/7-13, Aadi Poli, P.O. Chandrapura, P.S. Chandrapura, District- Bokaro(Jharkhand). All the writ petitioner are presently posted as Driver Constable in Special Task Force, Headquarter , Ekta Bhawan, Near Golghar, Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police(Welfare), Bihar, Patna.
4. The Inspector General of Police(Operation), Bihar, Patna.
5. The Inspector General of Police (Insepction), Bihar, Patna.
6. The Additional Director General, Bihar Military Police, Patna.
7. The Superintendent of Police(Operation), Special Task Force, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anita Kumari

For the Respondent/s : Mr. MANISH KUMAR -GP4

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 18-07-2018



Heard learned counsel for the petitioners and learned counsel for the State.

In this writ petition, the petitioners are seeking a relief that their status should not be allowed to be changed from driver to constable as they have discharged the duty as driver in Special Task Force (hereinafter referred as “STF”). Admittedly petitioners are members of the Bihar Military Police, for certain period petitioners were deputed to STF where they learnt driving became driver in the STF. The Government has decided to repatriate the services of the petitioners and others to the parent department for the purposes of giving training in the Police Training College (PTC) making them eligible to the post of Sub-Inspector and accordingly the services of the petitioners has been repatriated and they have been adjusted to the post which they were holding.

The grievance has been raised by the petitioners, that they were selected by STF there they became driver with an undertaking they will hold the same post althrough, this undertaking was taken at the time of placement in STF. Whatever commitment was extended by the STF, is not applicable to the authority of the BMP, it may applicable to the STF. The petitioners were deputed in STF after repatriation and



they cannot claim the same post which they were holding in STF. Further, there is a procedure for selection of driver-constable as provided under Clause 1186 of Bihar Police Manual, wherein it has been provided the manner and qualification for selection of the driver-constable, is as follows:

“1186. Appointment of driver/Havildar driver/Reserve Sub-Inspector (Transport) – (a) Driver, - Keeping in view, the qualifications required for drivers, the Superintendents shall make selections from among the rank of constables and send the list to the Range Deputy Inspector-General for approval. Preference may be given to those who already know driving. The drivers shall ordinarily remain in their own districts. The number of constables (i.e. “Learners”) trained or to be trained in driving for filling vacancies shall not exceed 25 per cent of the sanctioned strength of driving staff (see rule 1188).

The drivers shall be given training as provided in clause (3) Appendix 88 and tested.

A list of drivers, who become successful in tests, shall be kept in districts according to seniority and copy sent to Range Deputy Inspector – General where these shall be consolidated.

(b) Havildar drivers – They shall be appointed from among the drivers of the range list as given below:-

In July, the Range Deputy Inspector-General shall call for nominations in P.M. Form No.102 for promotion to the rank of Havildar Drivers from Superintendents on the basis of seniority and efficiency. At



least 14 days before nominations are sent to Deputy Inspector-General, the Superintendent shall publish by district order the names of those driver constables whom they propose to promote in order that those who are not to be promoted may represent their cases before the promotions are made. The driver constables making such representations should be given interviews and their cases examined with them. In forwarding the nominations, a certificate must be given of the dates on which the lists were published and intimation sent to those not nominated. The Range Deputy Inspector-General's board may interview the nominees in which a Motor Vehicle expert may also be kept. Thereafter a list of a selected driver constables shall be prepared and a copy of the minutes of the committee sent to Inspector-General office. If any driver constable is placed higher than his seniority warrants, reasons must be given for the same.

(c) Reserve Sub-Inspector (Transport). – See rule 660 B (a) (ii).”

Further the Government has framed the rule for the appointment of driver-constable which is called as Bihar Police Driver Cadre Rule 2017.

When a procedure has been prescribed for appointment of driver-constable petitioners can only be adjusted in terms of clause of Bihar Police Manual as well as in terms of the Rules of 2017. If the petitioners feel that they are qualified persons to be



adjusted as a driver-constable they will be at liberty to approach before the appropriate authority and the authority will take decision in accordance with law.

With the aforesaid observation and direction this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

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

