

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.751 of 2023

1. Ali Asgar Khan Son of Sagir Khan Resident of Village-Lahwar, P.O. Lahwar , P.S. Kewti, Lahuar, District-Darbhanga, Bihar, Presently Posted as Hawaldar
2. Upendra Kumar Kashyap Son of Ramdayal Singh Resident of Village-Haridaspur, P.O. Sahobigha, P.S. Birupur, District-Jehanabad, Bihar, Presently Posted as Hawaldar
3. Navin Kumar Singh Son of Nageshwar Singh Resident of Village-Khetila, Tetar, P.S. Atri, District-Gaya, Bihar, Presently Posted as D.P.C./125
4. Madheshwar Sharma Son of Devki Singh Resident of EF-170, Block-4, BH Colony, Janta Flat, District-Patna. Bihar, Presently retired as Hawildar

... .. Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Home (Police), Government of Bihar, Patna.
3. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
4. The Home Secretary, Government of Bihar, Patna.
5. The Director General of Police, Bihar, Patna.
6. The Additional Director General of Police, Crime Investigation Department (CID), Bihar, Patna.
7. The Deputy Inspector General, Crime Investigation Department (CID), Bihar, Patna.
8. The Superintendent of Police (C), Crime Investigation Department (CID), Bihar, Patna.
9. In-Charge, Account Section, Crime Investigation Department (CID), Bihar, Patna.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Prashant Kumar, Advocate Mr.Shashank Shekhar Dubay, Advocate
For the Respondent/s	:	Mr.Ajay Kumar (AC to GP- 4)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 11-04-2023 Heard learned counsel for the petitioners and the

State.



Petitioners in the present case are seeking the following reliefs:-

“i.) For issuance of appropriate writ, order or direction in the nature of Certiorari for quashing and setting aside the resolution of the State Government issued vide Memo No. 9615 dated 12.11.2018 (Annexure-2) (to the extent it is applicable to the Petitioners) whereby the Grade Pay and all consequential benefits including ACP to the Petitioners was retrospectively revised without notice or opportunity of hearing with a direction for recovery/deduction of the purported excess amount from the respective salaries paid to the Petitioners pursuant to the resolution as contained in Annexure-1 which is discriminative, arbitrary and retrospective in nature and in violation of the principles of natural justice and fairness.

ii.) For issuance of appropriate writ, order or direction in the nature of Certiorari for quashing and setting aside the Crime Investigation Department Order No. 1204/2018 dated Nil (Annexure-3) (to the extent it is applicable to the Petitioner) in compliance of the State Government Resolution No. Memo NO. 9615 dated 12.11.20185 (Annexure-2) pursuant to which the Grade Pay and all consequential benefits including ACP to the Petitioners was retrospectively revised without notice or opportunity of hearing with a direction



for recovery/deduction of the purported excess amount from the respective salaries paid to the Petitioners.

iii.) For issuance of appropriate writ, order or direction in the nature of Mandamus thereby directing the Respondent authorities for reversion of the grade pay and all consequential benefits of the Petitioners at the rate effective prior to the issuance of Memo No. 9615 dated 12.11.2018 (Annexure-2) and refund of deductions thus made from the monthly salary of the Petitioners.

iv.) For issuance of appropriate writ, order or direction thereby interdicting the Respondents from giving effect to and saying the operation of the resolution vide Memo No. 9615 dated 12.11.2018(Annexure-2). Crime Investigation Department Order No. 1204/2018 dated Nil (Annexure-3), during the pendency of the present writ application before this Hon'ble Court.

v.) For grant of such other order or direction for which the Petitioner is found entitled to in the facts and circumstances of the case.”

On the last date when the matter was taken up for consideration i.e. on 21.03.2023, this Court passed the following order:-

“Learned counsel for the petitioners submits that this case would be squarely covered by the order dated 25.02.2023 passed



by this Court in CWJC No. 209 of 2023 (Nagendra Kumar Singh and Another Vs. State of Bihar and Others).

Mr. Ajay Kumar, learned AC to GP-4 submits that he will examine this issue and will revert to this Court on 10th April, 2023 with a short counter affidavit.

Let this matter be listed under the same heading maintaining its position on 10th April, 2023.

In the meantime, no deduction shall be made from the petitioners.”

Today when the matter has been called out, learned counsel for the State prays for further time without providing any cogent reason as to why further time is required and what actions were taken during the time granted by this Court.

Learned counsel for the petitioners submits that the case of the petitioners would be covered by the ratio of the order dated 25.02.2023 passed by this Court in CWJC No. 209 of 2023 (Nagendra Kumar Singh and Anr. vs. The State of Bihar and Others) the copy of the same has been brought on record. On perusal of the order, in the case of Nagendra Kumar Singh would show that in the said case also the prayer was to quash the resolution of the State Government issued vide Memo No. 9615 dated 12.11.2018. Almost identical



prayers were there in the said writ application. This Court considered the stand of the State and found that the State did not dispute the fact that the petitioners in the said case were not served with any show cause notice. With the writ application, series of orders passed by this Court in respect of similarly situated persons have been enclosed as Annexure '5'. It appears that at the earliest one Haseeb Ahmad Khan had approached this Court in CWJC No. 10220 of 2021 wherein this Court held that the petitioner is a Constable and it is a Group 'C' post, therefore, the matter of recovery would be squarely covered by the decision of the Hon'ble Apex Court in the case of **State of Punjab and Others vs. Rafiq Masih (White Washer) and Others** reported in **(2015) 4 SCC 334**. The impugned order dated 12.11.2018 (Annexure '2') has been set aside and the writ application was allowed reserving liberty to the respondents to initiate a fresh proceedings in accordance with law after giving ample opportunity of hearing to the petitioner.

Similar order was passed in CWJC No. 4864 of 2021 (Kameshwar Singh and Anr. vs. The State of Bihar and Others). In the background of the aforesaid orders in the two writ applications, the another order was passed by this Court on 21.02.2023 in CWJC No. 155 of 2023 and again order dated



25.02.2023 has been passed in CWJC No. 209 of 2023 (Nagendra Kumar Singh and Anr. vs. The State of Bihar and Others).

Learned counsel for the State does not dispute that the present writ application is similarly situated.

In such circumstances, this Court sets aside the impugned order by which recovery has been ordered (Annexure '3') in so far as it relates to the petitioners and directs that no recovery shall be made from the petitioners. If any recovery has been made, the same shall be paid back to the petitioners within one month.

This writ application is disposed of in terms of the order dated 22.02.2022 passed in CWJC No. 10220 of 2021 and other cases mentioned above.

(Rajeev Ranjan Prasad, J)

tusharika/-

U			
---	--	--	--

