

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.265 of 2023

In

Civil Writ Jurisdiction Case No.6910 of 2020

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1. Simon Soreng son of Fancis Soreng, Resident of Village- Tukupani Gurgurchuan, P.S.- Tupudega, District- Simdega.
 2. Venkatesh Kumar, son of Mukeshwar Singh, Resident of Village- Raghunathpur, P.S.- Khiri More, District- Patna.
 3. Shyam Kumar Chhetry, son of Late Nandraj Singh, Resident of Village- Bishardah, P.S.- Mithanpura, District- Muzaffarpur.
 4. Nand Kumar Singh, son of Mahanand Singh, Resident of Village- Mirganj Chatar, P.S.- Babhangawan, District- Bhojpur.
 5. Kaptan Singh Yadav, son of Shivmuni Singh Yadav, Resident of Village- Sherpur, P.S.- Mohammadabad, District- Ghazipur, U.P.
 6. Janmejaya Pandey, son of Chandrama Pandey, Resident of Village- Mohaniya Shiusagar, P.S.- Shivsagar, District- Rohtas.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Govt. of Bihar, Patna.
2. The Director General of Police, Patel Bhawan, Bailey Road, Patna, Bihar.
3. The Director General, Bihar Military Police, Patel Bhawan, Bailey Road, Patna, Bihar-cum- Chairman of the Committee.
4. The Inspector General of Police, Budget/ Appeal/ Welfare, Bihar, Patna.
5. The Inspector General of Police (Head Quarter), Patel Bhawan, Bailey Road, Patna, Bihar.
6. The Deputy Inspector General of Police, Bihar Military Police, Central Range, Patna.
7. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
8. The Commandant, Bihar Military Police- 12, Saharsa, IRB- 2 Camp, Katihar.
9. Surendra Mandal son of Late Nunulal Mandal, Resident of Village- Isarain Kalan, Ward No.-3, P.S.- Kumarkhand, District- Madhepura.
10. Narayan Prasad Yadav, son of Indeshwari Prasad Yadav, Resident of Village- Korlaha Tola, P.S.- Salkhua, District- Saharsa.
11. Bikram Thakur, son of Saryug Thakur, Resident of Village- Bilashpur, P.S. Raxaul, District- East Champaran.
12. Bhola Prasad Yadav, son of Rambrith Yadav, Resident of Village- Tadpadh, P.S.- Dipnagar, District- Nalanda.
13. Ramdhani Sah, son of Chedi Sah, Resident of Village- Pokharia Sungtia, P.S.- Gopalpur, District- Bhagalpur.
14. Md. Mustafa Khan son of Diwan Jamiluddin Khan, Resident of Village-



Noghara, P.S.- Chainpur, District- Kaimur.

15. Arun Kumar son of Basudev Prasad Yadav, Resident of Village- Manikpur, P.S. and District- Madhepura.
16. Birendra Kumar Singh, son of Kedra Prasad Singh, Resident of Village- Karjan, P.S.- Athmalgola, District- Patna.
17. Pramod Kumar Yadav, son of Matvar Yadav, Resident of Village- Balahu, P.S. Darauhi, District- Siwan.
18. Niranjana Prasad son of Rajdev Ram, Resident of Village- Afzalpur Tola, Mubarkpur, P.S. and District- Jehanabad.
19. Ramchandra Yadav son of Mishrilal Yadav, Resident of Village- Khadipur, Sattar Panchgachiya, P.S.- Bihra, District- Saharsa.
20. Pramod Kumar Singh, son of Jatadhari Singh, Resident of Village- Parsawa, Karhata, P.S. and District- Gaya.
21. Anil Kumar, son of Anandi Singh, Resident of Village- Sahokhar, Saraia, P.S.- Sohsarai, District- Nalanda.
22. Manoj Kumar, son of Lalan Singh, Resident of Village- Garhi Rampur, P.S. Garhi Rampur, District- Munger.
23. Ashok Kumar Singh, son of Ramdev Singh, Resident of Village- Rajkrishnanagar, Khuthari, P.S.- Kahalgaon, District- Bhagalpur.
24. Suresh Prasad Yadav, son of Gulab Prasad Yadav, Resident of Village- Bhairabpur, P.S.- Kumarkhand, District- Madhepura.
25. Md. Sanif Uddin, son of Late Md. Oumar Uddin, Resident of Village- Salimpur, Suturkhana, P.S.- Muffasil, District- Munger.
26. Mahesh Sharma, son of Mithla Sharma, Resident of Village- Anandpur, P.S.- Bihta, District- Patna.
27. Shiv Chandra Paswan, son of Devi Paswan, Resident of Village- Chakibrahim, P.S.- Bidupur, District- Vaishali.
28. Dubraj Banra, son of Soma Banra, Resident of Village- Tilopada, P.S.- Kharsawa, District- Saraikela, Jharkhand.
29. Raj Kumar Paswan, son of Late Shaho Paswan, Resident of Village- Jhamtapar jana, P.S. and District- Nalanda.
30. Bir Singh Tiu, son of Kundiya Tiu, Resident of Village- Nakahasa kanki, P.S.- Chaibas, District- West Singhbhum, Jharkhand.
31. Subodh Kumar, son of Late Chandeshwar Singh, Resident of Village- Piariya, P.S.- Gaurichak, District- Patna.
32. Lakshman Prasad Yadav, son of Late Dukhi Prasad Yadav, Resident of Village- Gadhiya, P.S.- Bangaon, District- Saharsa.
33. Bharat Prasad Yadav, son of Baliram Yadav, Resident of Village- Banahin, P.S.- Banahin, District- Bhojpur.
34. Radheshyam Ray, son of Ramaashre Ray, Resident of Village- Bhagvanpur Vaini, P.S.- Tajpur, District- Samastipur.
35. Nakul Kumar Rai, son of Vashisth Rai, Resident of Village- Kalodehari, P.S.- Chauri, District- Bhojpur.



36. Madhusudan Sharma, son of Sajjandhari Singh, Resident of Village- Ijarata, P.S.- Paliganj, District- Patna.
37. Suresh Kumar Mishra son of Umakant Mishra, Resident of Village- Dhurlakh, P.S. Samastipur Muffasil, District- Samastipur.
38. Md. Haidar Ali, son of Md. Abdul Gaffar, Resident of Village- Phensaha, Ghordaur, P.S.- Salkhua, District- Saharsa.
39. Vijay Kumar Kisku, Son of Shaligram Kisku, Resident of Village- Pipradih, P.S. Belha, District- Banka.
40. Shambhu Kumar Gupta, son of Jaynarayan Gupta, Resident of Jayprakash Nagar, Ward No- 6, P.S. and District- Madhepura.
41. Rama Shankar Mishra, son of Raghu Nandan Mishra, Resident of Village- Kabela, P.S.- Parbata, District- Khagaria.
42. Brahamdeo Paswan, son of Siglas Paswan, Resident of Village- Raiyam, P.S.- Jhanjharpur, District- Madhubani.
43. Bigu Singh Yadav, son of Hardev Singh Yadav, Resident of Village- Bhokhri, P.S. Mohania, District- Kaimur.
44. Suresh Bhagat, son of Sukhdeo Bhagat, Resident of Village- Pakauli, P.S.- Hajipur, District- Vaishali.
45. Maldev Singh, son of Amiraka Singh, Resident of Village- Chando, P.S.- Chainpur, District- Palamu, Jharkhand.
46. Krishna Kumar Singh, son of Awadhesh Singh, Resident of Village- Alawalpur, P.S.- Gaurichak, District- Patna.

... .. Respondent/s

Appearance :

For the Appellants	:	Mr. Abhay Shankar Singh, Advocate Mr. Barun Kumar Singh, Advocate
For the Respondents	:	Mr. Ajit Kumar, GA-9 Mr. Navin Kumar Singh, Advocate

**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)**

Date : 11-12-2024

Re: I.A No. 01 of 2023.

The present application has been filed under Section 5 of the Limitation Act seeking condonation of delay of 1 year 8 months 13 days.



2. Having gone through the affidavit, accompanying the delay condonation application, we are satisfied that there is sufficient cause for delay condonation.

3. The delay in filing the appeal is condoned.

4. I.A. No. 01 of 2023 stands allowed.

Re: L.P.A No. 265 of 2023.

The appellants are concerned with the recovery of their 1st and 2nd ACP granted. The appellants were appointed as Constables in the Bihar Military Police, which establishment is now no more existing. However, they are continuing as Hawildars in the police force of the State. The appellants were Matriculates and hence were designated as 'Literate Constables' and were granted 1st and 2nd ACP. Later, there was a recovery effected of the ACP granted, which was challenged before this Court. A learned Single Judge held that the 1st ACP cannot be recovered but permitted the 2nd ACP to be recovered; in a batch of cases.

2. An appeal filed as L.P.A No. 431 of 2021 (Surendra Mandal & Ors vs. the State of Bihar & Ors.), in one of the cases, even the recovery of the 2nd ACP was interdicted by a Co-ordinate Bench of this Court. This Court relied on *State of Punjab and Others vs. Rafiq Masih (White Washer) and*



Others; 2015 (1) PLJR (SC) 261 and *Thomas Danial vs. State of Kerala and Others, 2022 Live Law (SC) 438* to interdict the recovery. We are told that there is no appeal taken from the above order. The appellants being similarly placed, we are of the opinion that the very same directions shall be issued in their favour also. There can be no recovery with respect to the ACP granted to the appellants; both the 1st & the 2nd.

3. The Letters Patent Appeal stands allowed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.12.2024.
Transmission Date	

