

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1756 of 2023

Ras Bihari Dubey, son of Sri Hareram Dubey, resident of Ward No. 6,
Pandeypur, P.S. Khandhera, District – Buxar.

... .. 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 Additional Director General of Police, Military Police, Bihar, Patna.
4. Assistant Inspector General of Police, Welfare, Bihar, Patna.
5. The D.I.G. of Police, Military Police, Now known as Bihar Special Armed Police, Northern Zone, Muzaffarpur.
6. The Commandant BSAP-8, Begusarai.
7. The Commandant BSAP-4, Dumraon, Buxar.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 25424 of 2019

1. Upendra Singh, Son of Shri Kanhaiya Singh, Resident of Village-Purwan, Barhamour, P.S.-Barhampur, District-Buxar, Pin-802112.
2. Pradeep Kumar Giri, Son of Sri Lakshuman Giri, Resident of Village-Bishambhara, P.O.-Dukhichhapar, Sargatia, P.S.-Gopalpur, District-West Champaran, Pin Code-845307.
3. Shyam Chhetri, Son of Sri Gopal Chhetri, Resident of Village-Sheikhpura, P.O.-B.V. College, P.S.-Shastri Nagar, District-Pin Code-800014.
4. Raja Chhetry, Son of Sri Shyam Kumar Chhetry, Resident at Station Road near Chutiya Thana, P.O.-Chutiya, P.S.-Chutiya, Ranchi, District-Ranchi (Jharkhand), Pin Code-834001.
5. Manjit Saiba, Son of Sri Glow Saiba, Resident of Uttar Palash, Champasari, District-Darjeeling, West Bengal, Pin Code-734003.
6. Animesh Kumar Kewat, Resident at Pathla, Damodarpur, P.O. and P.S. and Dist-Lakhisarai, Pin Code-811311.
7. Ramesh Ram, Son of Sri Ashrfi Ram, Resident of Village-Baruara, P.O.-Kushorthar, P.S.-Bahadurpur, District-Darbhangha, Pin Code-847429.
8. Marcy Mukttan, Son of Sri Dhan Bahadur, Resident of J.A.P. (1), Doranda, Ranchi, P.O.-Doranda, District-Ranchi (Jharkhand), Pin Code-834002.
9. Rajesh Kumar Prasad, Son of Sri Madan Prasad, Resident of Vill and P.O.-Mandrauli, P.S.-M.N. Nagar Hasanpur, District-Saran at Chapra Pin Code-



841233.

10. Pradip Singh, Son of Sri Birendra Singh, Resident of Village-Gharohin, P.O.-Chausa, P.S. Buxar (Muffasil), District-Buxar, Pin Code-802114.
11. Gopal Sharma, Son of Ramkishun Singh, Resident of Dawathu, Gangapur, Jehanabad, P.O.-Gangapar, P.S.-Hulasganj, District-Jehanabad, Pin Code-804407.
12. Rajesh Kumar Yadav, Son of Sri Amar Nath Yadav, Resident of Village-Kasshi Tarwan, P.O.-Tarwan, Pophiya, P.S.-Kopa, District-Chhapra (Saran), Pin Code-841205.
13. Bipin Bihari Yadav, Son of Sri Pravesh Yadav, Resident of Village-Jagdishpur, P.O.-Nadaoan, P.S.-Buxar (Muffasil), District-Buxar, Pin Code-802103.
14. Sanjay Yadav, Son of Sri Bali Narayan Yadav, Resident of Laxuman Dera, Chakki, Buxar, P.O.-Chakki, P.S.-Brahampur, District-Buxar, Pin Code-802120.
15. Umesh Kumar Yadav, Son of Sri Badri Yadav, Resident of S.T.F. Ekta Bhawan, P.O.-G.P.O., P.S.-Gandhi Maidan, District-Patna Pin Code-800001.
16. Sushil Kumar, Son of Sri Jagnarayan Chaudhary, Resident of Village-Bhadsari, P.O.-Bhada, P.S.-Bagen Gola, District-Buxer, Pin Code-802134.
17. Santosh Kumar Yadav, Son of Sri Bhimsen Prasad Yadav, Resident of Village-Sangar Tola, P.O.-Ravel Ganj, P.S.-Ravel Ganj, District-Chhapra (Saran), Pin Code-841305.
18. Ravindra Kumar, Son of Sri Sukhari, Resident of Mohanpur, Kishunpur, Madhuban, Turki, P.O.-Kishunpur, P.S.-Kudhani, District-Muzaffarpur, Pin Code-844127.
19. Ajay Kumar, Son of Sri Bahadur, Resident of Quarter No. H/Y-13, Addi Pally, Chandarpur, P.O. Chandarpur, District-Bokaro (Jharkhand), Pin Code-828403.
20. Ramesh Kumar Yadav, Son of Sri Jagdish Yadav, Resident of Vill and P.O.-Bhawalpur, P.S.-Marhourah, District-Chhapra, Pin Code-841418.
21. Tek Bahadur Rana, Son of Late Dil Bahadur Rana, Resident of Village-Koraibari Milan More, Koraibari, Champasari, District-Darjeeling, Pin Code-734003.
22. Markandey Singh, Son of Sri Lal Bihari Singh, Resident of Village and P.O.-Sonpa, P.S.-Rajpur, District-Buxar, Pin Code-802114.
23. Bal Bahadur Pun, Son of Min Bahadur Pun, Resident of BMP-1, Rukanpura, District-Patna, Pin Code-800014.
24. Bishnu Bahadur Chhetry @ Bishnu Chhetry, Son of Sri Hari Bahadur Chhetry, Resident of Jail Camp, Phulwari, P.O. B.V. College, P.S.-Hawai Adda, District-Patna, Pin Code-800014.
25. Santosh Kumar Thakuri, Son of Late Yashvir Singh Thakuri, Resident of Mohalla-Singra Asthan, Police Line, District-Gaya, Pin Code-823001.
26. Vinod Kumar, Son of Sri Baban Singh, Resident of Vill and P.O.-Kulhariya, P.S. and District-Buxar, Pin Code-802101.



27. Ratnesh Kumar Yadav, Son of SRi Dinanath Yadav, Resident of Vill and P.O.-Amarpur Tole Barauli, P.S. Darauly, District-Siwan, Pin Code-841234.
28. Suresh Thapa Magar, Son of Sri Bharat Thapa Magar, Resident of B.M.P.-1, B.V. College, Patna, Pin Code-800014.
29. Shankar Thapa, Son of Bahadur Jung Thapa, Resident of B.M.P.-1, B.V. College, District-Patna, Pin Code-800014.
30. Satish Bahadur, Son of Sri Bhim Bahadur, Resident of Raniganj, Bardhaman, West Bengal, Pin code-713347.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Home Deptt., Bihar, Patna.
2. Principal Secretary, Home (Police) Department, Bihar, Patna.
3. Director General of Police, Bihar Military Police, Patna.
4. Additional Director General of Police, Bihar Military Police, Patna.
5. Superintendent of Police, Special Task Force (Operations) Special Task Force, Bihar, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 4470 of 2021

Md. Javed Khan, Son of Late Maquebul Khan resident of village and P.o.- Usia, P.s.- Dildarnagar, District- Ghazipur (U.P.), at present Constable No. 521, B.M.P. 5, P.o.- B.V. College, Patna-800014

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Home Department, Bihar, Patna
2. Director General of Police, Military Police, Bihar, Patna
3. Inspector General of Police, Military Police, Bihar, Patna
4. Deputy Inspector General of Police, Military Police, Central Zone, Patna
5. Commandant, Bihar Military Police-5, Patna

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 21291 of 2021

1. Hare Ram Thapa, Son of Shri Shiv Ram Thapa, resident of C/o of Rajendra Prasad Chaurasiya, resident of Karbigahiya, Near Durga Mandir, Jakkanpur,



P.O. - G.P.O., P.S.- Jakkanpur District - Patna, Bihar, Pin Code - 800001.

2. Ranjeet Prasad Singh, Son of Shir Dhanendra Singh, resident of Mahula, P.O. - Chainpur, District - Kaimur (Bhabua), Bihar, Pin Code - 821103.
3. Chin Bahadur Thapa, Son of Shri Ram Bahadur Thapa, resident of B.M.P.- 1, B.V. College, Phulwari, District - Patna, Bihar, Pin Code - 800014
4. Gyanendra Jang Shah, Son of Shri Hom Jang Shah, resident of Sheikhpura (B.M.P. - 1, Gorkha BTN), B.V. College, Phulwari, District - Patna, Bihar, Pin Code - 800014.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Bihar, Patna.
2. Principal Secretary, Home (Police) Department, Bihar, Patna.
3. Director General of Police, Bihar, Patna.
4. Director General, Bihar Military Police, Patna.
5. Additional Director General of Police, Bihar Military Police, Patna.
6. Superintendent of Police, Special Task Force (Operations) Special Task Force, Bihar, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 13991 of 2022

1. Sujay Kumar Yadav, Son of Late Jugeshwar Prasad Yadav Resident of Village-Ghosi Tola, P.S.-Kasm Bazar, District-Munger.
2. Md. Yaqub Khan Son of Md. Chand Khan Resident of Village-Sihuli, P.S.- Rafiganj, District-Aurangabad.
3. Sandeep Kumar Son of Ram Prakash Singh Resident of Village and P.S.- Barahya, District-Lakhisarai
4. Sanjiv Kumar Son of Late ganesh Kumar Resident of Village-Sonbarsa, P.S.- Bihpur, District-Bhagalpur.
5. Gulshan Kumar Son of Mithileshwar Singh Resident of Village-Papraur, P.S.-Barauni, District-Begusarai.
6. Pramod Kumar Sono f Late Bisheshwar Prasad Resident of Village-Paijuna, P.S.-Ghoswari, District-Patna.
7. Preetam Kumar Son of Late Ramshwar Prasad Yadv Resident of Village-Babhangama, P.S.-Kahalgaon, Shiv Narayanpur, District-Bhagalpur.
8. Md. Sabbir Alam Son of Md. Quayumuddin, Resident of Village-Saidpur, P.S.-Mansi, Distrct-Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar throgh the Director Genral of Police, Bihar, Patna.



2. The Director General of Police, Bihar Patna.
3. The Assistant Inspector General of Police (Welfare), Bihar, Patna.
4. The Inspector General of Police (All).
5. The Deputy Inspector General of Police (All).
6. The Commandant, Bihar Special Arms Police-07, Katihar.
7. The Commandant, Bihar Special Arms Police-09, Jamalpur.
8. The Commandant, Bihar Special Arms Police-08, Begusarai.
9. The Commandant, Bihar Special Arms Police-11, Jamui.

... .. Respondent/s

with
Civil Writ Jurisdiction Case No. 14064 of 2022

1. Rajiv Kumar, Son of Late Suresh Singh Resident of Village-Renuan, P.S.-Hussainganj, District-Siwan.
2. Deepak Paurel, Son of Purushttom Paurel, Resident of OSAP, 2nd Battalion, P.O.-O.M.P. Line, P.S.-Jharsuguda, District-Jharsuguda (Orissa).
3. Samir Bara, Son of Late Robert Bara, Resident of Village-Sisai Road, (Nadi Toli), P.S.-Gamla, District-Gumla (Jharkhand).
4. aSubhash Chandra Jha Son of Late Ram Chandra Jha Resident of Village-Barail, P.S.-Supaul, District-Supaul.
5. Ram Shankar Kumar, Son of Kameshwar Singh Resident of Village-Rahatpur, P.S.-Suryagarha, District-Lakhisarai.
6. Vinod Kumar, Son of Ganesh Ram Resident of Village-Larma, P.S.-Durgawati, District-Kaimur (Bhabhua).
7. Satyendra Kumar, Son of Dharmnath Prasad Yadav Resident of Village-Nakta Diara, P.S.-Digha, District-Patna.
8. Mukesh Kumar Singh, Son of Indradeo Singh Resident of Village-Dhanushi, P.S.-Rahika, District-Madhubani.
9. Ashok Kumar Mahto Son of Asharfi Mahto, Resident of Village-Khor Madanpur, P.S.-Bheja, District-Madhubani.
10. Rajesh Kumar Yadav, Son of Late Brigunath Yadav Resident of Village-Mishr Bandhaura, P.S.-Bijayipur, District-Gopalganj.
11. Sonu Kumar, Son of Late Murari Prasad Resident of Village-Sadaveh, P.S.-Dulhin Bazar, District-Patna.
12. Suryadeo Singh, Son of Sada Briksh Singh Resident of Village-Saif Ganj, P.S.-Banke Bazar, District-Gaya.
13. Sant Kumar Singh, Son of Bijendra Singh Resident of Village-Sapahi, P.S.-Brahampur, District-Buxar.
14. Vijay Kumar, Son of Late Anirudh Singh Resident of Village-Daudpur, P.S.-Goah, District-Aurangabad.
15. Rohit Kumar, Son of Sita Ram Prasad Resident of Mohalla-Chirayantand,



P.S.-Rampur, District-Gaya.

16. Jitendra Kumar, Son of Shiv Dayal Prasad Resident of Village-Churi P.S.-Chandauti District-Gaya.
17. Bharat Kumar, Son of Gopal Prasad Resident of Mohalla-Karsilli, Vishnupad Road, P.S.-Vishnupad, District-Gaya.
18. Rajiv Ranjan Kumar, Son of Birendra Kumar Singh Resident of Village-Bishunpur, P.S.-Wazirganj, District-Gaya.
19. Raj Kumar, Son of Bhagwan Prasad Singh Resident of Village-Khera, P.S.-Warisaliganj, District-Nawada.
20. Arun Kumar Singh, Son of haribansh Narayan Singh Resident of Village-Faridpura, P.S.-Taraiya, District-Saran, Chapra.
21. Raj Kuamr Kunwar, Son of D.R. Kunwar, Resident of J.A.P-01, Camp, Block No.01, P.O. and P.S.-Doranda, District-Ranchi (Jharkhand).
22. Ghan Kumar Thappa, Son fo Balram Thappa, Resident of Mohalla-Doranda, P.S.-Doranda, District-Ranchi (Jharkhand)
23. Fat Bahadur Kharka, Son of Man Bahadur Kharka, Resident of O.S.A.P., 2nd Battalion, P.O.-O.M.P., Line, P.S. and District-Jharsuguda (Orissa).
24. Pradeep Kumar Jha, Son of Late Laxmi Kant Jha Resident of Officer Colony, Mirchaibari, Ward No.7, P.S.-Sahayak Thana Mirchaibari, District-Katihar.
25. Prabhat Kumar, Son of Ratneshwar Prasad Singh Resident of Mohalla-Indrapuri, P.O.-B.C.P.-7, katihar, P.S. and District-katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Assistant Inspector General of Police (Welfare), Bihar, Patna.
4. The Inspector General of Police (All).
5. The Deputy Inspector General of Police (All)
6. The Commandant, Bihar Special Arms Police-01, Patna.
7. The Commandant, Bihar Special Arms Police-02, Dehri.
8. The Commandant, Bihar Special Arms Police-03, Bodh Gaya.
9. The Commandant, Bihar Special Arms Police-05, Patna.
10. The Commandant, Bihar Special Arms Police-08, Begusarai.
11. The Commandant, Bihar Special Arms Police-11, Jamui.
12. The Commandant, Bihar Special Arms Police-13, Darbhanga.
13. The Commandant, Bihar Special Arms Police-14, Patna.
14. The Commandant, Bihar Special Arms Police-Mahila Battalion, Sasaram.
15. The Commandant, Bihar Special Arms Police-05, (ATS) Patna.

... .. Respondent/s



with
Civil Writ Jurisdiction Case No. 14493 of 2022

1. Shailesh Kumar, Son of Ramanand Singh Resident of Village- Sevati, P.S.- Dhanarua, District- Patna.
2. Mukesh Kumar, Son of Sri Brij Mohan Sharma Resident of Village- Bandhuganj, P.S.- Ghoshi, District- Jehanabad.
3. Rakesh Kumar Sharma, Son of Satyendra Kumar Sharma Resident of Raghunathpur, P.S.- Hulasganj, District- Jehanabad.
4. Md. Qaisar Ali, Son of Late Md. Shafique Resident of Village- Seema, P.S.- Sakri, District- Madhubani.
5. Shashank Kumar Singh, Son of Late Gajendra Prasad Singh Resident of Village and P.S.- Ranvra, District- Bhagalpur.
6. Dipu Prasad Singh, Son of Late Awadh Kishor Singh Resident of Village- Khuran, P.S.- Aalamnagar, District- Madhepura.
7. Basant Kumar Singh, Son of Sri Heera Lal Singh Resident of Village- Kanhauli, P.S.- Khajauli, District- Madhubani.
8. Vikash Kumar, Son of Sri Bharat Prasad resident of Village- Bhatgaon, P.S.- Barh, District- Patna.
9. Pankaj Kumar, Son of Yogeshwar Paswan resident of Village- Karara, P.S.- Ghoshwari, District- Patna.
10. Sushil Kumar, Son of Jagdish Yadav Resident of Village- Sukhashan, P.S.- Madhepura, District- Madhepura.
11. Balmukund Jha, Son of Dilip Kumar Jha Resident of Village- Scindia Makandpur, P.S.- Gopalpur, District- Bhagalpur.
12. Sintu Kumar Rai, Son of Pramod Rai Resident of Village- Katua, P.S.- Sangrampur, District- Munger.
13. Jitendra Kumar Ojha, Son of Rajgiri Ojha resident of Village- Semaria Ojha Patti, P.S.- Shahpur, District- Bhojpur at Ara.

... .. Petitioner/s

Versus

1. The State of Bihar through Home Secretary, Government of Bihar, Patna.
2. The Director General of Police, Regional
3. The Additional Director General of Police, Welfare, Bihar, Patna.
4. The Deputy Inspector General of Police Bihar, Patna.
5. The Bihar Special Arms Police (BSAP) Patel Bhawan, Bailey Road, Patna.
6. The Commandant, B.S.A.P I, Near Airport, Patna.
7. The Commandant, B.S.A.P. 5th, Bihar Veterinary College, Patna.
8. The Commandant, B.S.A.P. 6th,, Muzaffarpur.
9. The Commandant, B.S.A.P 7th, Kathihar.
10. The Commandant, B.S.A.P 9th, Jamalpur, Munger.



- 11. The Commandant, B.S.A.P 12th, Birpur, Supaul.
- 12. The Commandant, B.S.A.P 13th, Darbhanga.
- 13. The Commandant, B.S.A.P 14th, Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 1756 of 2023)
For the Petitioner/s : Mr. Ram Hriday Prasad, Advocate
Mr. Sanjiv Kumar, Advocate
Mr. Maruti Kumar, Advocate
For the Respondent/s : Mr. Manish Kumar (GP4)
Mr. Ajay Kumar, AC to GP-24
(In Civil Writ Jurisdiction Case No. 25424 of 2019)
For the Petitioner/s : Mr. Abhinav Srivastava, Advocate
For the Respondent/s : Mr. Sheo Shankar Prasad (SC8)
Ms. Ruchika Jha, Advocate
Mr. Sanjay Kumar, Advocate
(In Civil Writ Jurisdiction Case No. 4470 of 2021)
For the Petitioner/s : Mr. Harshvardhan Shivsundaram, Advocate
For the Respondent/s : Mr. Manish Kumar (GP4)
(In Civil Writ Jurisdiction Case No. 21291 of 2021)
For the Petitioner/s : Mr. Abhinav Srivastava, Advocate
For the Respondent/s : Mr. Manish Kumar (GP4)
Mr. Ajay Kumar, AC to GP-24
(In Civil Writ Jurisdiction Case No. 13991 of 2022)
For the Petitioner/s : Mr. Mukesh Kumar, Advocate
For the Respondent/s : Mr. P.K. Verma (AAG3)
(In Civil Writ Jurisdiction Case No. 14064 of 2022)
For the Petitioner/s : Mr. Mukesh Kumar, Advocate
For the Respondent/s : Mr. Manish Kumar (GP 4)
Mr. Ajay Kumar, AC to GP-24
(In Civil Writ Jurisdiction Case No. 14493 of 2022)
For the Petitioner/s : Mr.Rama Kant Sharma, Advocate
Mr. Rajesh Kumar, Advocate
For the Respondent/s : Mr. M. Nasrul Huda Khan (SC 1)
Md. H. Quareshi, AC to SC 1

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
CAV JUDGMENT

Date : 08-10-2024

Since common question of law and facts is involved in the above-mentioned batch of writ petitions, all were heard analogously and is disposed of by this judgement.

2. As the factual matrix involved in all the writ petitions are almost similar, I propose to deal with the facts



involved in C.W.J.C. No. 25424 of 2019 hereinbelow.

3. I also propose to mention factual deviations, if any, in other writ petitions, which are taken up for adjudication along with C.W.J.C. No. 25424 of 2019.

4. Facts of C.W.J.C. No. 25424 of 2019 in narrow compass is that sometime in the year 2000, the Home Police Department decided to constitute Special Task Force (hereinafter referred to as the 'STF' for short) in order to detect, control, investigate and bring the offenders under judicial process to control connected organized crimes, communal and racial offences and offences against women belonging to backward classes. On the basis of the said decision, a letter was issued on 18th of August, 2000 by the appropriate authority under the Home (Police Department) to the Accountant General, Bihar, Patna, informing him the decision taken by the State Government for creation of the above-mentioned STF. In Clause 4 of the said letter, dated 18th of August, 2000, it was categorically mentioned that for the purposes of constitution of the STF, personnel would be selected from the existing police force and after imparting training to them, they would be deputed under the STF. It was also prescribed that the police personnel would be on deputation in the STF for a period of 2



and 3 years and after their satisfactory services, they would be posted at one place, out of three options, to be submitted by them. Subsequently, pursuant to the decision taken by the Home (Police Department), it was decided to constitute ten numbers of additional companies of STF for which additional number of personnel were sanctioned by the concerned authorities and by a letter, dated 16th of October, 2008, necessary information was sent to the Accountant General, Bihar, Patna in this regard. The letter dated 16th of October, 2008 demonstrates that 40 posts of Driver Constable were sanctioned for the STF. The Petitioners were originally appointed as Constables in the Home (Police Department). Subsequently, they were taken to STF for the purposes of appointment of Havildar/Drivers following Rule 1186 of Bihar Police Manual.

5. It is further stated by the Petitioners that upon completion of driving training, they successfully passed the driving test conducted by the Committee so constituted for the said purpose and thereafter vide an STF Order No. 756, dated 6th of June, 2012, passed by the Superintendent of Police, STF, Bihar, Patna in accordance with Rule 1186 of Bihar Police Manual, the Petitioners were appointed in the capacity of Driver Constables under the STF. Therefore, the cadre of the Petitioners



was changed from General Constables to the cadre of Driver Constables. They were also entitled to get financial benefit in the form of driving allowances as per their entitlement. Subsequently, by Order No. 1375, dated 5th of October, 2012, passed by the Superintendent of Police, STF, Bihar, Patna, some of the Petitioners were transferred in the capacity of Driver Constables in different districts/units in their parent organization since the date of deputation in STF. The Petitioners all along discharged their duties as Driver Constables. Subsequently, by an order dated 7th of June, 2016, issued by the Superintendent of Police, STF, Bihar, Patna, the Inspector General of Police (Headquarters), Bihar was requested to include the names of the Driver Constables working under the STF, Bihar in the State seniority list of Driver Constables. The names of the present Petitioners were included in the said gradation list amongst other persons. On 15th of July, 2016, the Additional Director General of Police, Bihar Military Police, Patna issued a letter clarifying that the police personnel who were posted under the company of STF, ATS would be considered to be working as such on deputation and their original cadre in the parent department would not change. However, the said letter, dated 15th of July, 2016 did not come into force in furtherance of the request made



by the Superintendent of Police, STF, Bihar by his letter dated 7th of June, 2016, with respect of inclusion of names of the Driver Constables working under STF in the State seniority list of Driver Constables.

6. Under such circumstances, the Petitioners along with other similarly situated persons submitted representation before the Additional Director General of Police, Bihar Military Police, Patna by which they requested the concerned authority to take steps allowing the Petitioners to continue in cadre of Driver Constables as they were appointed as such following the provisions contained under Rule 1186 of Bihar Police Manual. The Petitioners also mentioned that by virtue of the order passed in C.W.J.C. No. 1708 of 2010, dated 30th of August, 2010, the Director General of Police, Bihar, Patna issued a letter on 10th of April, 2014, directing the concerned authority under the Police Department not to revert the persons who already been included in the cadre of Driver Constables from the cadre of General Constables. Thus, the present Petitioners were also entitled to continue in the cadre of Driver Constables.

7. Previously, the present Petitioners filed C.W.J.C. No. 9400 of 2018, stating, inter alia, a prayer for direction upon the concerned authorities to take steps towards including the



names of the Petitioners in the cadre of Driver Constables within the State of Bihar and, accordingly, extend other consequential benefits as they may be found to be entitled to in accordance with law.

8. The aforesaid writ petition was disposed of vide an order dated 18th of July, 2018, granting liberty to the Petitioners to approach the appropriate authority who would take a decision in accordance with law with respect to inclusion of the present Petitioners in the cadre of Driver Constables.

9. Against the said order passed in C.W.J.C. No. 9400 of 2018, the Petitioners preferred an appeal bearing L.P.A. No. 1670 of 2018. The said appeal was disposed of by the Division Bench vide a judgment dated 2nd of August, 2019, modifying the order passed in C.W.J.C. No. 9400 of 2018.

10. In appeal, the concerned authorities were directed to consider the claim of the present Petitioners / appellants with all such similarly situated Drivers who may have been screened in terms of the provisions contained under paragraph 1186 of Bihar Police Manual, inasmuch as this was only provision available prior to 2017 Rules for adjustment, and, accordingly, the Additional Director General, Bihar Military Police, Patna, was directed to take decision in the said matter in the light of



observations made by the Court of Appeal in L.P.A. No. 1670 of 2018.

11. Thus, by virtue of the order passed in the aforesaid appeal, the State Government was required to take a decision with regard to future of such Driver Constables who had undergone the exercise as contemplated under Rule 1186 of Bihar Police Manual and accordingly pass necessary orders in this regard.

12. Under the aforesaid facts and circumstances, grievance of the Petitioners is that without considering the direction passed by the Division Bench in the aforesaid appeal, the Director General of Police, Bihar Military Police, Patna passed an impugned order vide Memo No. 1408, dated 9th of October, 2019, rejecting the representations filed by the Petitioners. Rejection of the representations submitted by the Petitioners constitutes the cause of action to file the instant writ petition with the following reliefs:-

“(i) Issuance of a direction, order or writ, including writ in the nature of certiorari quashing of the order dated 09/10/2019 bearing memo no. 1408 passed by the Director General of Police, Bihar Military Police, Patna, by which the claim of the Petitioners to be included in the cadre of Driver Constables has been rejected in the most illegal and



arbitrary manner;

(ii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned Respondent authorities under Bihar Military Police to take steps towards allowing conversion of the cadre of the present Petitioners from the cadre of general Constables to the cadre of drive Constables in the services of Bihar Military Police in view of the fact that in terms of the provisions contained under paragraph no. 1186 of Bihar Police Manual, the Petitioners have already been imparted necessary training as Drivers and as such continuously discharging their duties in the capacity of Driver Constables in accordance with law;

(iii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned Respondent authorities to extend all the consequential benefits in favour of the Petitioners as they will be found to be entitle to upon their inclusion in the cadre of Driver Constables in the services of the Bihar Military Police in accordance with law;

(iv) Issuance of a declaration holding that the Petitioners are entitled for their inclusion in the cadre of Driver Constables in the services of Bihar Military Police in view of the fact that in terms of the provisions contained under paragraph no. 1186 of Bihar Police Manual, the Petitioners have already imparted necessary training and upon completion of



the said training, they have also been continuously discharging their duties in the capacity of Driver Constables under Special Task Force where they are on deputation from Bihar Military Police;

(v) Any other relief that the Petitioners may be found to be entitled to in the facts and circumstances of the present case.”

13. In C.W.J.C. No. 4470 of 2021, the Petitioner has prayed for issuance of writ in the nature of Certiorari quashing the order passed by the Deputy Inspector General, Military Police, Central Zone, Patna, vide Memo No. 644 A, dated 1st of September, 2020 and its communication to the Petitioner vide Letter No. 2732, dated 9th of September, 2020, issued by the Commandant, BMP 5, Patna, by which the claim of the Petitioner for his inclusion was rejected as well as appropriate direction, order or writ in the nature of mandamus, commanding the Respondents to adjust the Petitioner as Driver Constable against the available vacancy.

14. The Petitioner was appointed as Constable, General Duty in Bihar Military Police (BMP) 5, Patna on 8th of January, 2008. He passed driving test and in 2010, he was posted as Learner Constable. On 17th of December, 2014, an examination was held for adjustment of Learner Constable as Constable Driver. The Petitioner was successful in the said



examination. The Commandant recommended his name for the post of Driver Constable on 7th of January, 2015. On 1st of June, 2015, other persons selected as Learner Drivers, subsequent to the Petitioner, was adjusted by the Deputy Inspector General, Military Police, Central Zone, Patna. The Petitioner submitted a representation before the Commandant on 14th of February, 2019, stating his grievance and claiming that he was also entitled to be adjusted to the post of Driver Constables. However, the said representation was not disposed of, which compelled the Petitioner to file a writ petition before this Court bearing C.W.J.C. No. 20742 of 2019.

15. The said writ petition was disposed of vide an order, dated 22nd of July, 2019, directing the Respondents to consider the case of the Petitioner. However, the claim of the Petitioner was rejected by the DIG, Bihar Military Police, Patna, vide an order dated 1st of September, 2020, which was communicated to him on 9th of September, 2020.

16. C.W.J.C. No. 21291 of 2021 is filed by four Petitioners praying for quashing the order, dated 9th of October, 2019, passed by the Director General of Police, Bihar Military Police, Patna. The Petitioners have contended that they were found eligible for discharging their duties in the capacity of



Driver Constable under the STF by an order dated 6th of June, 2012. Thus, their cadre was changed from the cadre of General Constable to the cadre of Driver Constable. By order dated 5th of October, 2012, the Petitioners along with others were transferred in the capacity of Driver Constable in different district/units. On 7th of June, 2016, seniority list of the Driver Constable was published and the names of the present Petitioners were found in the said gradation list. By an order dated 15th of July, 2016, the Respondent authorities took a decision that police personnel who were posted under the company of STF / ATS would be considered to be working as such on deputation and their transfer in parent cadre would not be changed. Thereafter, the Petitioners were granted liberty to approach the appropriate authority to take decision in accordance with law in respect of inclusion of the present Petitioners in the cadre of Driver Constable. On 2nd of August, 2019, by a judicial order, the Respondent authorities were directed to consider the claim of the present Petitioners along with all other similarly situated Drivers, who may have been screened in terms of the provisions contained in Rule 1186 of Bihar Police Manual as this was the only provision available prior to 2017 Rules. The Petitioners submitted their representation on 29th of August, 2019 and the



same was rejected by the Director General of Police, Bihar Military Police, Patna on 9th of October, 2019.

17. Hence, the instant writ.

18. There are eight Petitioners in C.W.J.C. No. 13991 of 2022. The Petitioners were appointed as Learner Drivers. The Petitioner no. 1 was appointed as Learner Driver on 14th of March, 2009. The remaining Petitioners, i.e., Petitioner no. 2 and Petitioner nos. 3 to 8 were appointed on the same post on 28th of April, 2012 and 2nd of June, 2012 respectively. On 15th of July, 2011, the State Government amended Rule 1186 of Bihar Police Manual under Article 309 of the Constitution of India substituting the original provision by amending Rule 1186(a) regarding recruitment process of Driver Constable in Bihar Police and Bihar Military Police with immediate effect. The Petitioner no. 1 was transferred from Katihar to Jamalpur and again he had to appear in a learning test of Driver conducted by his superior authority and he was declared successful. The learning test of remaining Petitioners were also conducted during the period of 20th of April, 2012 and 2nd of June, 2012 and they were also declared to be successful.

19. In the meantime, one Md. Javed Khan filed writ petition bearing C.W.J.C. No. 4470 of 2021 before this Court,



claiming, inter alia, that he has passed requisite examination and the results were announced on 17th of December, 2014. His name was recommended on 7th of January, 2015 for the post of Driver Constable, but it was not approved.

20. In the said writ petition, an order was passed by a Coordinate Bench on 7th of April, 2022, directing the Range DIG, Military Police, Central Zone, Patna to approve the Petitioner's name as recommended on 17th of January, 2015 and issue an order of appointment to the post of Driver Constable within a week from the date of the order. The Respondents were represented by the learned Additional Advocate General-3 in C.W.J.C. No. 4470 of 2021 before the Coordinate Bench on 12th of May, 2022 and submitted that Rule 1186 of Bihar Police Manual was amended on 3rd of March, 2014 to certain extent, viz., earlier qualification for Driver Constable was matriculation and it was modified to Intermediate (10+2) pass. Further constitution of Selection Committee was also modified and the Committee was reconstituted on 26th of August, 2015. Therefore, whatever action taken by the Commandant, BMP 5, Patna, subsequent to 3rd of March, 2014 and 26th of August, 2014, was without authority of law, and, therefore, the Petitioner cannot claim adjustment on the basis of process of selection undertaken



by the Commandant, BMP-5, Patna for the post of Driver Constable.

21. In view of the order, dated 12th of May, 2022, directing the Director General of Police, Bihar to file a counter affidavit in C.W.J.C. No. 4470 of 021, the Police Headquarter issued instruction on 2nd of August, 2022 to show cause to those Driver Constables, who were adjusted after 15th of July, 2011 and 3rd of March, 2014. During the period between 6th of August, 2022 and 8th of August, 2022, the Petitioners were directed to show cause as to why they would not be reverted to their original post (Constable) from the post of Driver Constable. They submitted representation on 14th of August, 2022 and on 2nd of September, 2022. Petitioner nos. 2, 5 and 6 were reverted to their original post as Constable.

22. In C.W.J.C. No. 14064 of 2022, the Petitioners claimed absorption on the ground that they were promoted to the Learner Driver before amendment of Rule 1186 of Bihar Police Manual, which came into effect on 15th of July, 2011. At the time of final hearing, the Petitioners have filed the respective dates against their name when they were selected as Learner Driver and adjusted in the cadre of Driver Constable.

23. In C.W.J.C. No. 14493 of 2022, the issue raised



by the Petitioners is whether amendment of Rule 1186 (a) of Bihar Police Manual w.e.f. 15th of July, 2011 can be made the basis of disqualifying the Petitioners' absorption as Learner Driver under the unamended provision, when the Petitioner had been declared qualified for the absorption prior to 15th of July, 2011.

24. In C.W.J.C. No. 1756 of 2023, it was submitted by the Petitioner that he was appointed as Constable in Bihar Military Police-8, Begusarai. On 29th of December, 2010, the Commandant, Bihar Military Police-8, Begusarai declared the Petitioner and other six Constables successful in driving test, conducted by a committee, constituted for the purpose of absorption of Constables of General Duty to the Cadre of Learner Driver (Samwarg). On 13th of January, 2011, the Deputy Inspector General, Military Police, Central Zone, Muzaffarpur directed the Commandant BMP-8 to send the names of the Learner Drivers for absorption in the post of Driver Constable. Before sending the names of the Learner Drivers for absorption in the post of Driver Constable, another test was taken and the names of seven Learner Drivers including the Petitioner were recommended. Original Rule 1186 of Bihar Police Manual was amended w.e.f. 15th of July, 2011. By an order, dated 29th of



April, 2017, the Petitioners and others were posted as Hawaldar Drivers on promotion, by virtue of a notification issued by the General Administration Department in its letter No. 4800, dated 1st of April, 2016 as well as notification No. 1179/P 0-3, dated 20th of April, 2016 against the available vacancy. Thereafter, on 2nd of August, 2022, the Petitioner along with others were reverted to the post of General Constable. The Petitioners submitted a representation on 23rd of September, 2022, but the said representation was rejected *vide* order dated 14th of October, 2022.

25. Hence, the instant writ.

26. In C.W.J.C. No. 25424 of 2019, a counter affidavit has been filed on behalf of Respondent Nos. 2 and 5. In the counter affidavit, contesting Respondents have claimed that in order to curb organized criminal activities in the State of Bihar, and further to take action thereupon in a consolidated manner against the offenders, a Special Task Force was created to combat organized criminal, as per Memo No. 9742, dated 18th of August, 2000, issued by the Home Police Department. It was clearly stated in the said order, dated 18th of August, 2000 that Police Personnel in the said Special Task Force have to be filled up on deputation basis from the districts / other units of the



Police Force and they have to return their units / districts / units after completion of deputation period. In terms of the said letter, the General Constables on the basis of their suitability were deputed in the STF for a maximum period of 7 to 10 years. It is further contended by the contesting Respondents that in order to fill up the sanctioned vacant posts of the Driver Constables, the controlling authority of the Special Task Force had suit for choices from amongst Junior Commandos (Constables) in the General Cadre for performing the job on the post of Driver Constables. The contesting Respondents, however, contend that the said decision was apparently against the mandate of Memo No. 9742, dated 18th of August, 2000 (Annexure- 1), which clearly stated that the Driver Constables of Special Task Force would be appointed on deputation basis. On detection of such anomaly, the authorities of the Special Task Force subsequently appointed the Learner Driver Constables in different areas from the personnel of STF who have been deputed as Constable at STF, though in this regard they obtained the choices of the Constables taking recourse to the provisions as laid down under Rule 1186 of Bihar Police Manual. The said process was duly approved by the Inspector General of Police (Operations). The said Learner Drivers have been given the stature of Driver



Constables by different orders issued by the STF from time to time.

27. It is, however, urged by the contesting Respondents that the Learner Drivers were never granted any order of appointment as Driver Constables by the Respondents. In order to regularize the relevant provisions regarding process of selection and appointment / deputation of a Driver Constable, as laid down under the Bihar Police Manual and Appendix-88, thereof, have been repealed by a notification issued by the Home Department, Government of Bihar, *vide* notification no. 7655, dated 20th of September, 2017 enacting the Bihar Police Driver Cadre Rules, 2017.

28. It is also contended by the Respondents that originally Rule 1186 has been amended w.e.f. 15th of July, 2011, including Higher Educational Qualification, Driving Skill and other relevant requirements. Therefore, old Rule 1186 has been repealed. The repealed rule 1186 of the Bihar Police Manual stipulated that the selection of Drivers would be made from amongst the ranks of Constables and such Drivers were supposed to remain in their own districts. The General Constables, who were absorbed in Special Task Force as Learner Drivers and thereafter Driver Constables, if recruited in the



original cadre of Driver Constables, it would exceed the upper limit of 25 per cent of sanctioned strength for the post of Constable Drives for a particular district/battalion/unit. The Petitioners were originally appointed as General Constable in Bihar Military Police and they were subsequently deputed to the STF or anti-terrorist squad/ATS where their cadre was allegedly converted from General Constable of Bihar Military Police to that of Driver Constable. But such conversion is apparently in contravention of the existing rules.

29. In C.W.J.C. No. 4470 of 2021, Respondent Nos. 4 and 5 have filed two separate counter affidavits. It is contended by the Respondent No. 4 that the appointment of Driver Constable is governed by Rule 1186 of Bihar Police Manual, which provides for appointment of Driver and Driver Constable and other posts. Initially, it was provided in the said rule that the Superintendent would recommend the names of eligible candidates to the Director General of Police for their appointment. Subsequently, the said Rule was amended vide Memo No. 7, dated 3rd of March, 2014. By the said amendment, the mode of appointment was changed and the appointment was directed to be made following the procedure prescribed under the said amendment. It was provided that Driver Constables



would be appointed by direct recruitment in respect of their specific region, for which the Director General of Police shall constitute a Selection Committee. In the said Selection Committee, the Superintendent of Police, Motor Vehicle Inspector and District Welfare Officer shall be the members. The Superintendent of Police shall be the Chairman of the Committee. The Committee shall invite the application from the eligible candidate having experience of driving motor vehicles for at least one year. Certain amendments were also made in Appendix-88 of Part 3 of Bihar Police Manual, 1978 regarding training and examination of the selected Driver Constables.

30. It is further contended by the Respondent No. 4 that the Director General of Police, Bihar, Patna, issued guidelines for the constitution of Committee for the purpose of zone-wise selection vide a Memo No. 2186 / P 03 dated 28th of August, 2014. Pursuant to the said guidelines issued by Director General of Police, Bihar, Patna, the Inspector General (Headquarters) constituted the Committee vide a Letter No. 2528/P 03, dated 20th of October, 2014 and directed the said Committee to initiate the selection process. However, due to the ignorance of the amended provisions of Rule 1186, which came into force w.e.f. 3rd of March, 2014, the Respondent No. 5



recommended by his letter dated 7th of January, 2015, names of 7 candidates, including the Petitioner, for appointment on the post of Driver Constable.

31. In view of the above-mentioned amendment and guidelines, the Director General of Police sought for appropriate guideline on the recommendation of Respondent No. 5 vide Letter No. 146 dated 13th of March, 2015. The Respondent No. 4 also sought for appropriate direction in this regard from the Inspector General (Headquarters) for appointment of such persons recommended by the Respondent No. 5. Subsequently, the Government of Bihar by its notification dated 3rd of September, 2015 issued further guidelines and prescribed for direct appointment of candidates after recommendation of Central Selection Committee constituted by the D.I.G. Bihar, Patna. The State Government also came up with a comprehensive Rule regulating the recruitment and service conditions of Bihar Police Driver Cadre under the name and style of Bihar Police Driver Cadre Rules, 2017 which came into force with immediate effect. Rule 19 of the Bihar Police Driver Cadre Rule, 2017 superseded all previous orders, letters/notification and all appointments and declared that all appointments and service conditions of Driver Constables shall



be governed by the Bihar Police Driver Cadre Rule, 2017. Therefore, the recommendation made by the Respondent No. 5 on 7th of January, 2015, had no effect in view of the amendment made in Rule 1186 and subsequent Rule of 2017. The said recommendation is not in consonance with the Rules and therefore appointment of the Petitioner on the basis of the said recommendation cannot be taken into consideration.

32. The similar issue came up for consideration before a Coordinate Bench of this Court in C.W.J.C. No. 6821 of 2019, decided on 13th of May, 2019 (Saroj Chhetri & Ors. v. State of Bihar & Ors.). This Court held that the Petitioners cannot claim it as a matter of right that they be retained as Constable Drivers, though they were selected after passing the examination and were posted as Driver Constables, which posting had also the approval of the Director General of Police, Bihar, Patna. Nonetheless, since such examination was conducted without any merit list having been published in accordance with the respective merit of the selected candidates and when it was found out later that only 8 out of them had been appointed against the sanctioned post of Driver Constables, then, instead of handpicking/choosing those 8 persons from amongst 13 successful candidates, the Police Department has chosen to



initiate the recruitment process afresh under the new rules.

33. Therefore, the Court found nothing wrong with the aforesaid decision of the Department. However, it was directed that in the fresh process of selection by the Central Selection Board, if the Petitioners participated and are successful, they be given preference over the others because they have served for four years as Driver Constables and have acquired skills which would only be used to advantage of the Department.

34. In other writ petitions also the contesting Respondents took the same stand, stating, inter alia, that in view of amendment of Rule 1186 of Bihar Police Manual w.e.f. 15th of July, 2011, the Petitioners who were appointed as Driver Constables without following the amended Rule after 15th of July, 2011, cannot claim regularization of service in the cadre of Driver Constables and subsequently as Hawaldar by way of promotion.

35. I have carefully heard the learned Senior Counsels on behalf of the Petitioners as well Respondents.

36. I have also minutely gone through the various notifications, letters, Rules, amended provisions governing the issue in these cases and duly considered the same.

37. Indisputably, the genesis of creation of STF and



ATS in the State of Bihar can be traced out when the State Government in its Home (Police) Department, decided in the year 2000 to constitute the said force to combat Naxalites Movement, Terrorists Movement, Communal and Racial Disputes and Offences and other related matters. It appears from the policy decision that the members of STF / ATS would not constitute a separate cadre. The Police personnel of various ranks would constitute STF / ATS.

38. The writ Petitioners in C.W.J.C. No. 25424 of 2019 admitted in paragraph no. 7 that Clause 4 of letter dated 18th of August, 2000, issued by the Home (Police) Department stated that for the purposes of constitution of STF, Police Personnel would be selected from existing police force and after imparting training to them, they would be deputed under the STF for a period of 2/3 years and after their specific services rendered by them, they would be posted at one place out of three options as might be decided by them.

39. It is needless to say that a deputation post is a position that an officer or employee is temporarily assigned to for a fixed period of time. The officer or employee is then required to return to their original position or organization after the deputation period ends.



40. It is contended on behalf of the Petitioners that even after the initial period of 2 / 3 years, the Petitioners were not directed to return to their parent cadre in the Police Department but they were asked to discharge their duties as Driver Constables in different regions/zones. The Petitioners have urged permanent nature of their post on the ground that on 16th of October, 2008, the Home (Police) Department, wrote a letter to the Accountant General, Bihar, intimating him about sanction of 40 posts of Driver Constables under the State Government. The said 40 posts of Driver Constables were taken to STF by way of deputation from the Police Personnel working in regular Police Department within the State of Bihar.

41. Secondly, it was contended on behalf of many Petitioners that they were appointed firstly as Learner Drivers, thereafter Driver Constables and some of them were also promoted to the post of Havildar Driver following unamended Rule 1186 of Bihar Police Manual, 1978. Subsequently, the said persons cannot be denied their appointment as Driver Constables on the ground that the aforesaid Rule was amended w.e.f., 15th of July, 2011.

42. Unamended provision of Rule 1186 of Bihar Police Manual, 1978, runs as here under:-



“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 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 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 660B(a)(ii).”

43. Plain reading of old Rule 1186 demonstrates that the Superintendents of Police of the District shall make selections of the suitable candidates from the cadre of Constables and sent the list to the Range DIG for its approval for the selection of Drivers keeping in view the qualifications required for the Drivers. Initially, they would be selected as Learner Driver and after training they would be directed to discharge function as Driver.

44. This old Rule suffered an amendment vide a Notification No. 5344 dated 15th of July, 2011. The said notification is reproduced below:-

Govt. Of Bihar
Home (Police) Department
Notification

7/B-Pu-H-203/2010 H (Police) 5344

Dated 15/7/2011

In exercise of powers conferred by proviso to Article 309 of the Constitution of India, the Governor of Bihar is pleased to amend Bihar Police Manual-1978 Part-1. Rule-1186 (a) regarding recruitment process of Driver Constable in Bihar



Police and Bihar Military Police, with immediate effect:-

For Rule-1186(a) of Bihar Police Manual-1978 following Sub-Rule shall be substituted:-

(i) Age :-

(a) For men of Unreserved Category, minimum 18 years and maximum 30 years of age is fixed.

(b) For men and women of Backward Class and Extremely Backward Classes, relaxation of 3 years in the upper age limit i.e., minimum age is fixed at 18 years and maximum at 33 years.

(c) For women of Unreserved Category, relaxation of 3 years in the upper age limit i.e., minimum age is fixed at 18 years and maximum at 33 years.

(d) For men and women of Scheduled Castes and Scheduled Tribes, relaxation of 5 years in the upper age limit, i.e. minimum age is fixed at 18 years and maximum at 35 years.

The above mentioned age limits shall remain effective till 31.12.2015.

(ii) Educational qualification:- 10th Pass, or equivalent

(iii) Reservation: -

The provisions of The Bihar Reservation of Vacancies in Post and Services (For Scheduled Castes, Scheduled Tribes and Other Backward



Classes) Act, 1991 (The Bihar Act-3, 1992 (as amended from time to time) shall be applicable. A maximum of 50% of the total available vacancies in the rank of Driver Constable may be filled up by Home Guards trained and registered in Bihar. A relaxation of 5 years in the upper age limit for Home Guards in all reservation categories shall be given for the vacancies to be filled up by Home Guards.

In case of non availability of sufficient number of eligible Home Guards candidates, the remaining vacancies in the Home Guards quota will be filled up by the non Home Guards candidates belonging to the same reservation category.

(iv) Height: -

(a) For men of Unreserved/Backward/Extremely Backward Categories- minimum fixed at 165 cms.

(b) For Gorkha of Indian race, only in BMP-1 (Gorkha Battalion)- minimum 160 cms.

(c) For men of Scheduled Castes and Scheduled Tribes - minimum 162 cms.

(d) For women of all Categories Minimum 153 cms.

(v) Chest:-

(a) For Gorkha of Indian race, only in Bihar Military Police-1 (Gorkha Battalion)

Normal 79 cms.(minimum)

After Expansion 84 cms. (minimum)

(After expansion, an increase of minimum



5 cms will be mandatory)

For woman, there shall be no chest measurement.

(vi) Physical fitness: -

(a) Run: -

(i) For men of all categories: - Time limit for 1 km run-6 minutes

Those taking more time will be declared disqualified.

(ii) For women of all categories:- Time limit of 1 Km run-8 minutes

Those taking more time will be declared disqualified.

For women of all categories:-Time limit of 1 Km run – 8 minutes

Those taking more time will be declared disqualified.

(b) High Jump:

(1) For men of all categories: Minimum 3' 6" (3 feet 6 inches)

(ii) For women of all categories: Minimum 2' 6" (2 feet 6 inches)

(c) Long Jump: -

(i) For men of all categories: Minimum 10 (ten) feet.

(ii) For woman of all categories: Minimum 7(seven) feet.

(d) Shot put:-



(i) For men of all categories: 16 pound Shot Put will have to be thrown to a minimum distance of 14(fourteen) feet.

(ii) For women of all categories: - 12 pound Shot Put will have to be thrown to a minimum distance of 8(eight) feet.

(vii) Candidate verification: -

The identity confirmation and driving license verification of candidates appearing for recruitment as Driver Constable shall be done by the SP before appointment so that no candidate is recruited by deceiving the selection board. It shall be mandatory to complete all such verifications within fifteen days of the candidate reporting for the recruitment. If more time is consumed on verification, its full justification shall be submitted by the SP to his DIG and the DIG shall submit a report in turn to the Police Headquarters.

(viii) Medical Test: -

Medical test of the selected candidates will be done prior to the appointment. Visual acuity of the candidate for both eyes with or without glasses should be 6/6 and near visual acuity for both eyes with or without glasses should be N6. Medical test of night vision, colour vision, audio capacity and Stammering will also be done. It will be mandatory for candidates to be found fit in medical, examination for appointment.

*By order of Governor
Sd/-*



(Arun Derhgawen)
Addl. Secretary to Govt.
Home Department

45. Thus, amended Rule 1186 speaks of educational qualification, reservation policy, physical measurement, physical fitness, candidate verification and medical test. The above-mentioned requirements were not stated in unamended Rule 1186.

46. Therefore, this can be certainly held that the Police Personnel who wanted to be posted as Driver Constables must have to fulfill the requirement of amended Rule 1186 of Bihar Police Manual.

47. It is further found from the counter affidavit filed by the Respondent No. 5 in C.W.J.C. No. 4470 of 2021 that the said Rule 1186 was subsequently amended vide Memo No. 7 dated 3rd of March, 2014. By virtue of the said amendment, minimum academic qualification for the post of Driver Constable was made Intermediate (10+2) pass. A detailed provision was made stating constitution of Selection Committee for the post of Driver Constables and related other provisions to be followed by the said Selection Committee.

48. Subsequently, by gazette notification dated 20th of September, 2017, Bihar Police Driver Cadre Rules, 2017, was



published stating detailed rule relating to constitution of cadre of Constable Drivers under the Home (Police) Department.

49. The above history of gradual modification and creation of a separate cadre of Driver Constables is required to be considered in these batch of writ petitions to ascertain as to whether the Petitioners are entitled to get any relief or not.

50. The submissions made on behalf of the Respondents may be summarized as follows:-

51. It is contended on behalf of the Respondents that on 29th of December, 2019, by Letter No. 1545 of 2010, the Commandant, Military Police, Begusarai, declared the names of successful Learner Drivers. The said notification is placed in Annexure 1 of the writ petition. Subsequently, by issuing Annexure 2 on 13th of January, 2011, the D.I.G., Bihar Military Police, Muzaffurpur, wrote a letter to the Commandant requesting him to send the names of the candidates who were selected for the purpose of training.

52. It is also stated in the said letter that after training they would be absorbed as Driver Constable in Bihar Military Police. Rule 1186 of the Bihar Police Manual was amended vide a notification dated 15th of July, 2011. By way of an amendment, minimum age, qualification, reservation policy,



physical measurement, and fitness were included in Rule 1186 (A). Thus, it is contended on behalf of the Respondents that original Rule 1186 was not in operation w.e.f. 15th of July, 2011.

53. On 24th of October, 2011, a list of Learner Driver was given to the concerned authority of Bihar Military Police for absorption as Constable Driver. They were absorbed vide a letter dated 12th of November, 2011.

54. It is contended on behalf of the Respondents that their absorption was not in accordance with law because they were not absorbed as per amended Rule 1186, which came into force on 15th of July, 2011, so the said absorption cannot be considered.

55. It also contended on behalf of the Respondents that similar issue was decided by the Division Bench in L.P.A. No. 778 of 2019 and the decision of these writ petitions shall be governed by the decision taken in L.P.A. No. 778 of 2019.

56. In reply, it is pointed out by Mr. Mukesh Kumar Thakur, learned Advocate, on behalf of the Petitioners in C.W.J.C. No. 14067 of 2022 and C.W.J.C. No. 13991 of 2022 that the decision in L.P.A. No. 778 of 2019 is distinguishable from the facts in this bunch of cases because in C.W.J.C. No. 6821 of 2019, out of which L.P.A. No. 778 of 2019 arose, the



Petitioners were appointed in the year 2015 as Driver Constables, i.e., well after the amendment of Rule 1186, which came into effect from 15th of July, 2011.

57. On question of law, learned counsels appearing on behalf of the Petitioners submits, referring to a decision in ***P. Mahendran & Ors. v. State of Karnataka & Ors.***, reported in ***AIR 1990 SC 405*** that it is well settled rule of construction that every statute or statutory rules is prospective unless it is expressly or by necessary implication made to have retrospective effect. Unless there are words in the statute or in the rules showing the intention to affect existing rights, the rule must be held to be prospective. If a rule is expressed in language, which is fairly capable of either interpretation, it ought to be construed as prospective only. In the absence of any expressed provision or necessary intendment, the rule cannot be given retrospective effect except in matter of procedure.

58. This ratio was laid down by the Hon'ble Supreme Court while considering the issue as to whether appointment of Motor Vehicle Inspectors, selection process of which was commenced under the old Rule ought to be governed subsequently by the amending Rule of 1987 or not. The Hon'ble Supreme Court held that the rules having no retrospective effect,



selection of candidates already made earlier would not be effective.

59. In ***Guneshwar Prasad Singh @ Gunes & Ors. v. The State of Bihar & Ors.***, reported in **2008 SCC Online Pat 743**, the question as to whether appointment can be made on the post of Tracers from Blue Printers came up for consideration before a Co-ordinate Bench of this Court and this Court held in paragraph 9 of the report as follows: -

“9. Learned counsel for the Petitioners has rightly urged that what the State Government specified was that as far as possible keeping in mind the skill of the persons appointment should be made on the post of tracers from blue printers. Be that as it may, it is the Respondents who have themselves allowed the Petitioners to continue on the post of tracers by now for approximately 19 years. At this stage, the issue that the Petitioners were appointed on a technical post from a nontechnical post loses much of its relevance. The experience of a tracer that the Petitioners have acquired practically on work, makes them better qualified than a novice blue printer to be appointed as a tracer. On facts this Court has already held that the ground urged in the impugned order that it was a mandatory requirement to hold the qualification of a blue printer for appointment to the post of tracer is also not sustainable in law. In view of the aforesaid discussion, this Court finds it difficult to sustain the impugned order dated 31.12.2005. The consequential order dated 16.1.2006 is accordingly set aside.”

60. In ***Vijay Chandra Roy & Ors. v. State of Bihar & Ors.***, reported in **2006 2 PLJR 455**, this question came up for



consideration before this Court that in 3rd and 4th Pay Commission report accepted by the Government of Bihar, it did not make any distinction between post of Seed Technician and Laboratory Assistants. They carried the same salary. There was no recruitment rule framed which authorized promotion of Laboratory Assistant to the post of Seed Technician. Under such circumstances, the Seed Technician persuaded the government to grant them a better salary than Laboratory Assistant. The Government reverted back the Seed Technicians to the post of Laboratory Assistant after they were made to work in such posts for 20 years. A Co-ordinate Bench of this Court in paragraph 4 of the judgement decided as follows:-

“4. Having regard to the fact that the Petitioners were drafted in equal posts and made to work in such posts for 20 years, it is impermissible on the part of the State to revert back them to their original post when the post to which they were drafted started getting higher salary by reason of a decision of the Government. It has not been contended in the counter affidavit that the posts of Seed Technicians as sanctioned by the State Government cannot accommodate the Petitioners. On the contrary it is apparent from the records that after reversion of one of the Petitioners his controlling authority has reported that the said Petitioner has been asked to work in a post which is not vacant i.e. the post of Laboratory Assistant.”

61. On the same issue, the learned counsels for the Petitioners referred to the following decisions: -



(i) ***Birendra Kumar Singh & Ors v. The State of Bihar & Ors.***, reported in ***2009 SCC Online Pat 836***.

(ii) ***Kumar Kant Lal & Ors. v. The State of Bihar & Ors.***, reported in ***2005 SCC Online Pat 447***.

62. The learned Advocate for the Respondents, on the other hand, refers to a decision of a Division Bench of this Court in ***Suraj Chhetir & Anr. v. The State of Bihar & Ors., L.P.A. No. 778 of 2019***, decided on 23rd of August, 2022. In paragraph 5 of the aforesaid report, it is observed by the Division Bench which is reproduced below: -

“5. The official Respondent has misled the appellants while invoking Rule 1186 (unamended Rule) in filling up of various posts including the Driver Constable post with reference to 25 % of the post earmarked for Constable with a driving knowledge (Trained Driver) or to be trained as a Driver to the Constable. As on the date of process of selection and appointment to the various Driver Constables in the year 2015, the Rule 1186 was substituted by notification dated 15.07.2011. The source cadre for the post of Driver Constable with reference to amended Rule (substitution of the Rule) do not provide source cadre from the Constable read with trained Driver or to be trained as a Driver to the Constable. On the other hand, the post of Driver Constable and other posts which are mentioned in Rule 1186 was required to be filled by open competition and maximum 50 % of the total available vacancy in the rank of Driver Constable may be filled by Home Guards trained and registered in Bihar. In the light of the aforesaid Rule, the



appellants who were Constables they are entitled to claim any locus to select them to the post of Driver Constable with a tag of Constable. On the other hand, they are entitled to compete to the post of Driver Constable under open competition provided they fulfill the eligibility criteria mentioned in the amended Rule dated 15.07.2011. In the light of these facts and circumstances, the process of selection in terms of unamended Rule 1186 is contrary to amended Rule dated 15.07.2011. Hence, the appellants have not made out a case. However, having mislead the appellants by the office of the Department in processing the recruitment to the post of Driver Constable in terms of unamended Rules, the appellants are entitled to cost of the litigation and it is quantified at Rs. 10,000/- (Rupees Ten Thousand). Cost shall be paid to the appellants from the Police Department for the reasons that appellants preferred two types of litigation viz., C.W.J.C. and L.P.A.”

63. I have already recorded the submission made on behalf of the Petitioners on applicability of the ratio laid down in L.P.A. No. 778 of 2019 hereinabove.

64. Having heard the learned counsels for the Petitioners and learned counsels for the Respondents, it appears on fact of individual case that in some of the cases, the writ Petitioners were appointed following unamended Rule 1186 prior to 15th of July, 2011. According to unamended rule, the said writ Petitioners were recommended by the Superintendent of Police of their respective districts and they were appointed first as Learner Driver and thereafter as Driver Constables.



Some of them have already been promoted to the post of Havildar Drivers. It is made clear that the writ Petitioners, who were appointed as Learner Drivers and subsequently as Driver Constables, prior to 15th of July, 2011 cannot be reverted back to the cadre of General Constable because they were deemed to be appointed as Driver Constables prior to amendment of Rule 1186.

65. However, there cannot be any appointment in any post of government service *de hors* the rule. The Petitioners cannot take advantage referring to certain orders and notifications issued after 15th of July, 2011 and subsequently after the amendment of the said rule in the year 2014 that Respondents appointed them as Driver Constables after the cut-off date of 15th of July, 2011 without considering the rule and they cannot be reverted back to their parental cadre. The appointment must be made following the rule of recruitment. The Appointing Authority has also no power to violate the rule relating to appointment of Constable Driver from the General Cadre of Police Constable after 15th of July, 2011 without following the recruitment process, thereafter after the cut-off date of 2014 without following the academic qualification. The Petitioners also cannot claim to secure their appointment as



Driver Constable in spite of the fact that some appointments were made after amendment of the rules.

66. For the reasons stated above, this Court disposes of all these batch of writ petitions by passing the following order: -

The Petitioners who were appointed as Learner Driver or Driver Constable in accordance with unamended rule 1186 prior to 15th of July, 2011 cannot be reverted back to their parent cadre of General Constable by the Respondents. The said Petitioners are to be treated as Driver Constables. If by dint of their continuous service, some of the are promoted to the post of Havildar Driver, their promotion is secured.

However, the writ Petitioners, who were appointed subsequent to 15th of July, 2011 or after further amendment of Rule 1186 in the year 2014, they cannot claim security on their posts of Driver Constables. The Respondents are at liberty to revert them back to their parent cadre of Police Constables.

This order is passed with a caveat that if any of such Petitioners satisfies the criteria and qualifications delineated in amended rule 1186 and has been working continuously as Driver Constables, the Respondent may consider them to absorb as Driver Constables and in such case, the rule relating to the



age limit shall be considered from the date of their absorption as
Learner Drivers.

67. With the aforesaid directions, all the above-
mentioned with petitions stand disposed of, on contest, however,
without costs.

(Bibek Chaudhuri, J)

skm/uttam/-

AFR/NAFR	AFR
CAV DATE	26.09.2024
Uploading Date	08.10.2024
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