

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14706 of 2024

1. Ravindra Kumar Sinha, Son of Late Yogendra Prasad, Resident of Mohalla Bisunpur Pakari, Yadav Path, near Indra Prabha Gas Godown, P.S.- Beur, Town and District- Patna, At present superannuated as a Health Educator from Additional Primary Health Centre, Bidupur, Vaishali.
2. Sidhnath Thakur, Son of Late Mukteshwar Thakur, Resident of Mohalla Ram Jaipal Nagar Aparna Bank Colony, Rebloon Regency Apartment, P.S. Danapur, Town Danapur, District- Patna, At present superannuated as a Health Educator from Additional Primary Health Centre, Bhagwanpur Rati, District- Vaishali.
3. Prabhat Kumar Sinha, Son of Late Rabindra Prasad Sinha, Resident of House No. 67, Road No. 14, Sri Krishna Nagar, P.S. Buddha Colony, Town and District : Patna at present superannuated as a Health Educator, Additional Primary Health Centre, Jurawanpur (Raghopur), District- Vaishali.
4. Hridysesh Kumar Singh, Son of Late Jagdish Narayan, Resident of House of Rajiv Ranjan, Road No.8, Ashok Nagar Road No. 1A, P.S. Kankarbagh, Town and District Patna at present superannuated as a Health Educator, Additional Primary Health Centre, Ghataro, Lalganj, District - Vaishali.
5. Parmanand Choudhary, Son of Late Rampati Choudhary, Resident of Flat No. 306 J Block, I.O.B. Nagar, Ward No. 4, Sarari, Khagaul, P.S. Danapur, District Patna. At present posted as Health Educator, Additional Primary Health Centre, Sain Patari Belsar Vaishali.
6. Dharendra Kumar, Son of Late Nand Lal Ram, Resident of R/17 Jagat Bihar Colony, Ashiana Nagar, P.S. Rajeev Nagar, Town and District- Patna. At present posted as Health Educator, Additional Primary Health Centre, Garang Pateri, Belsar, District- Vaishali.
7. Vinod Kumar, Son of Late Shiv Sharan Thakur, Resident of Mohalla - Tinmuniya Gali, Kumhrar, P.S. Agam Kuan, Town and District- Patna, At present posted as Primary Health Centre, Pateri Belsar, District- Vaishali.
8. Kamal Kishor Yadav, Son of Ramnandan Ray, Resident of Village- Gangajal, Bishunpur Sad Urf Bakarpur, P.S. Rajapakar, District - Vaishali, At present posted as Health Educator, Primary Health Centre, Chehara Kala, District - Vaishali.
9. Rakesh Kumar Singh, Son of Nand Lal Singh, Resident of near Jagadamba Asthan, Sanchi Patti, Hajipur, P.S. Hajipur District- Vaishali. At present posted as Health Educator, Additional Primary Health Centre, Basudeopur, Chandel, Mahnar, District- Vaishali.
10. Surendra Sah, Son of Asharfi Sah, Resident of Pokhara, Hajipur, P.S. Hajipur, District - Vaishali, At present superannuated from Health Educator, Primary Health Centre, Bhagwanpur, District- Vaishali.
11. Suman Kumar, Son of Late Singheshwar Prasad, Resident of Ashoka Tower D- 45, Machhli Gali, Chanakyapuri, Raja Bazar, Rukunpura B.V. College, P.S. Rukunpura, Town and District Patna. At present superannuated from Health Educator, Additional Primary Health Centre, Chak Sikander, Raja



Pakar, District- Vaishali.

12. Manoj Kumar, Son of Late Kameshwar Prasad, Resident of Mohlla Jal Kadarbagh, near Middle School, Nagla, P.S. Malsalami, Town Patna City, District - Patna. At present superannuated from Health Educator, Additional Primary Health Centre, Anirudh Belsar, Pateri Belsar, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Health Family Welfare, Government of Bihar, Patna.
2. The Director-in-Chief, (Disease Control Public Health and Para - Medical), Department of Health Services, Government of Bihar, Patna.
3. The Civil Surgeon cum Chief Medical Officer, Vaishali.
4. The Accountant General, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Akhilesh Dutta Verma, Advocate
For the Respondent/s : Mrs. Nivedita Nirvikar, Sr. Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 24-09-2024

Heard Mr. Akhilesh Dutta Verma, learned counsel appearing on behalf of the petitioners and Mrs. Nivedita Nirvikar, learned Senior counsel appearing on behalf of the respondent/s.

2. The petitioners, in paragraph no. 1 of the present writ petition, have sought, *inter alia*, the following relief(s), which is reproduced hereinafter:-

“1. That this application is for issuance of the writ in the nature of certiorari for quashing the letter vide memo no. 696(4) dated 01.08.2024 issued under the signature of Director-in- Chief Civil (Disease Control Public Health and Para- Medical), Department of Health Services, Government of Bihar, Patna (Annexure: P/3) and further for quashing of letter vide memo no. 1461 dated 12.08.2024 issued under the signature of Surgeon cum Chief Medical Officer, Vaishali (Annexure: P/4) whereby



and where under the recovery of excess amount of salary was seeked from the petitioner Nos. 1,2,3,4,10 and 11 from his pension account and petitioner nos.5,6,7,8 and 9 from his salaried account and for any other relief/reliefs for which the petitioners may found entitled.”

3. Learned counsel appearing on behalf of the petitioners informs that the petitioners no. 1, 2, 3, 4, 10, 11 and 12 have retired from service on different dates, from the post of Health Educator and after their retirement, the Civil Surgeon-cum-Chief Medical Officer, Vaishali vide Memo no.1461 dated 12.08.2024 (Annexure-P/4), had directed to recover the excess amount of salary paid to the petitioners. Learned counsel further submitted that the petitioners, being Class-III employees, who are now retired, seek to file detailed individual representation in light of law laid down in the case of **State of Punjab & Ors. Vs. Rafiq Masih (White Washer) & Ors.** reported in (2015) 4 SCC 334.

4. So far as, the petitioners no.5,6,7,8 and 9 are concerned, learned counsel submitted that they have not made any representation and for any incorrect pay scale fixed by the respondent, they themselves are responsible, however, one time recovery cannot be made from them. Learned counsel further submitted that petitioners no.5, 6, 7, 8 and 9 have been given the benefit of financial progression, as per the scheme of ACP and



MACP and the law in this regard is no more *res integra*, as has been held by the Apex Court in case of **Amresh Kumar Singh & Ors. Vs. The State of Bihar & Ors.** reported in (2023) SCC OnLine SC 496. So far as the stand of the petitioners is concerned, their case is covered by the law laid down by the Apex Court in case of **Amresh Kumar Singh (Supra)**. I find that here the case of the petitioners, is in respect of incorrect fixation of pay scale, while giving benefits of ACP and MACP. The petitioners, who are still in service, may file their individual representation before the Competent Authority to consider their case in light of several judgments of the Supreme Court.

5. All the petitioners are directed to file their individual representation by 08.10.2024 without delay.

6. Considering the grievance of the petitioners, from whom, still no recovery has been made, the Civil Surgeon-cum-Chief Medical Officer concerned must restrain from making recovery before the Competent Authority disposes the individual representation filed by the petitioners.

7. It is made clear that in case, the action of the respondent is not required to be interfered with by the Competent Authority, then in that case, the Competent Authority, before whom the petitioners seek to file



representation, is directed to provide opportunity of hearing to all the petitioners to defend their case.

8. With the aforesaid direction/observation, the present writ petition stands disposed of.

(Purnendu Singh, J.)

Sanjay/-
Ashishsingh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.09.2024
Transmission Date	NA

