

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8629 of 2024

1. Mostt. Maya Devi Wife of Late Bindeshwari Mehra (Retd. Hawaldar) Resident of Village- Yogiraj Nurullapur @Jogirar P.O.- Naya Tola, P.S.- Puraini, Dist.- Madhepura.
2. Sri Hari Narayan Yadav (Retd. Hawaldar) Son of Saini Yadav Resident Of village and P.O.- Beharai, P.S.- Singheshwar, Dist.- Madhepura.
3. Laxmi Paswan (Retd. Sub Inspector) Son of Bachhi Paswan Resident of Village- Madarganj, Ward No.-14 P.O and P.S.-Simraha, Dist.- Araria.

... .. Petitioner/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, Patel Bhawan, Bailey Road, Patna, Bihar.
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, Patel Bhawan, Bailey Road, Patna, Bihar.
7. The Principal Secretary, Finance Department, Govt. of Bihar Patna.
8. The Commandant, Bihar Military Police-12, Saharsa, IRB-2, Battalion Headquarter at Bhimnagar, Birpur, District- Supaul.
9. The Commandant, Bihar Military Police- 4, Dumraon, Buxar.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 8673 of 2024

1. Pannalal Roy (Retd. Hawaldar) Son of Bulaki Roy Resident of village- Nardiganj, P.O.- Madhomil, P.S.- Malsalami, District - Patna. Permanent resident of Village-Rustampur, P.S. Raghapur, District-Vaishali.
2. Sanjivan Prasad (Retd. Hawaldar) Son of Ramprit Prasad Resident of village- Beladih near hospital, P.O. and P.S.- Belaganj District- Gaya.
3. Veer Singh Mahto (Retd. Hawaldar) Son of Yogeshwar Mahto, Resident of village Domandih P.O.-Tutkinawadih, P.S.- Silli, District Ranchi (Jharkhand).
4. Daniel Masih (Retd. Hawaldar) Son of William Masih Resident of village



Bastipur Triveni lane, P.O. Manikpur, P.S.- Indrapuri, District Rohtas.

- 5. Ful chand Ram (Retd. Hawaldar) Son of Shanker Ram, Resident of village Mukundpur, P.O.- Manoharpur, P.S. Rajpur, District Buxar.
- 6. Dharmraj Singh (Retd. Hawaldar) Son of Jamadar Singh, Resident of village purana cable town, Quarter No.- M/ 4- 112Main road PO and PS - Gol muri, District East Singhbhum (Jharkhand).
- 7. Uday Shankar Singh (Retd. A.S.I.) Son of Shyam Bihari Singh, Resident of village Saraiya, P.O. Saraiya, P.S. Sonapur, District- Saran.

... .. Petitioner/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, Patel Bhawan, Bailey Road, Patna, Bihar.
- 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, Patel Bhawan, Bailey Road, Patna, Bihar.
- 7. The Principal Secretary, Finance Department, Govt. of Bihar Patna.
- 8. The Commandant, Bihar Special Armed Police (B. S. A. P) -2, Dehri, Dist- Sasaram.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 8629 of 2024)

For the Petitioner/s : Mr. Kumar Praveen
For the Respondent/s : Mr. Anuradha Singh
SC 21

(In Civil Writ Jurisdiction Case No. 8673 of 2024)

For the Petitioner/s : Mr. Kumar Praveen
For the Respondent/s : Mr. Anuradha Singh
SC 21

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 17-02-2025

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



2. Since the common issue is involved in both the petitions, both the writ petitions are being disposed of by a common order.

3. Husband of the petitioner no. 1 in C.W.J.C. No. 8629 of 2024 namely Bindeshwari Mehra and the petitioner nos. 2 and 3 of the said writ petition as well as all the petitioners in C.W.J.C. No. 8673 of 2024 were appointed to the post of Constable in B.M.P. After completion of their services, they stood retired from their services.

4. During their services period, they were benefited A.C.P. applicable to them. Now, the respondents passed the order of recovery of excess payment which has been given to the petitioners on account of wrongly granted A.C.P. to them.

5. Learned counsel appearing in both the petitions jointly submits that in terms of law laid down by the Hon'ble Supreme Court in the case of *State of Punjab and Others Vs. Rafiq Masih (White Washer) and Others* reported in **2015 (4) SCC 334** recovery from the employees belonging to Class-III and Class-IV is not permissible, in case where the excess payment has been made for a period in excess of five years before the order of recovery is issued. According to the counsels, the case of the petitioners herein squarely covered



with the above judgment passed by the Hon'ble Supreme Court.

6. Reliance has also been placed by the counsel to the judgment passed by the Division Bench of this Court on 26.04.2024 in ***L.P.A. No. 458 of 2021*** in the case of ***Srikant Dubey and others Vrs. The State of Bihar and Others*** and also reliance has been placed by the counsel to the judgment passed by the Co-ordinate Bench of this Court on 02.09.2024 in the case of ***Saheb Sharan Das Vrs. The State of Bihar*** in ***C.W.J.C. No. 8062 of 2021***.

7. Learned State counsel though opposed the argument raised by the counsel for the petitioners but he fairly admitted the fact that the case of the petitioners is also squarely covered with the judgment passed by the Hon'ble Supreme Court in the case of ***State of Punjab and Others Vs. Rafiq Masih (White Washer) and Others*** reported in ***2015 (4) SCC 334***.

8. On the submissions made by both the counsels and on perusal of the documents annexed with the petition, it is quite clear that all the petitioners herein are retired Hawaldars and after their retirement, the order of recovery of excess payment on account of wrongly given A.C.P. has been passed. Therefore, the case of the petitioners herein is squarely covered



with the above referred judgment passed by the Hon’ble Supreme Court as well as the Division Bench and the learned Single Judge of this Court. Accordingly, in the light of the above, both the petitions are allowed. The order of recovery of excess payment passed by the respondents in both the cases with regard to the petitioners are concerned are set aside. The respondents are hereby further directed to refund the recovered amount, if any, to the respective petitioners within a period of 3 months from the date of receipt/production of a copy of this order.

9. Accordingly, both the writ petitions are allowed.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	19.02.2025
Transmission Date	NA

