

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17905 of 2019

1. Rambachan Sharma, S/o Late Balmukund Sharma, Resident of Village- Mirjapur, P.S.- Didarganj, District- Patna (Hawaldar No. 95).
2. Upendra Kumar Verma, S/o Late Shivdayal Verma, Resident of Village- Badipur, P.S.- Naubatpur, District- Patna (Hawaldar No.- 74).
3. Krishna Kumar Singh, S/o Sri Ramnath Singh, Resident of Village- Barouda, P.S.- Garhani, District- Bhojpur at Ara. (Hawaldar No. 56).
4. Ravindra Rai, S/o Awadh Bihari Rai, Resident of Village- Telad, Prema Rai Ka Tola, P.S.- Agaion Bazar, District- Bhojpur at Ara. (Hawaldar No. 05).
5. Md. Javed Khan, S/o Late Makhbul Khan, Resident of Village- Usia, P.S.- Dildarnagar, District Gajipur (U.P.). (Hawaldar No. 521).
6. Mithilesh Kumar Singh, S/o Late Sabhapati Singh, Resident of Village- Purufitampur, P.S.- Muffasil (Ara), District- Bhojpur at Ara. (Hawaldar No. 46).
7. Ajay Kumar Singh, S/o Late Suresh Singh, Resident of Village- Fakharpur, P.S.- Arwal, District- Arwal. (Hawaldar No. 57).
8. Banaras Singh, S/o Late Jagdish Singh, Resident of Village- Khairidih, P.S.- Birni, District- Giridih (Jharkhand). (Hawaldar No. 153).
9. Baleshwar Sharma, S/o Late Shyamdeo Sharma, Resident of Village- Korba, P.S.- Hilsa, District Nalanda at Biharsharif. (Hawaldar No. 164).
10. Hemant Uraon, S/o Late Bhikhram Uraon, Resident of Village- Sakrauli, P.S.- Sisari, District- Gumla (Jharkhand). (Hawaldar No. 188).
11. Akhilesh Vishwakarma, S/o Late Faguni Mistri, Resident of Village- Kalpa, P.S.- Jehanabad, District- Jehanabad. (Hawaldar No. 45).
12. Jaipal Khalka, S/o Late Manijar Khalko, Resident of Village- Tund Toli, P.S.- Mahuadar, District Latehar (Jharkhand), (Hawaldar No. 33).
13. Ajay Kumar Singh, S/o Late Ramanup Prasad Singh, Resident of Village- Atwarpur, P.S. Lalganj, District- Vaishali. (Hawaldar No. 49).
14. Ramawadhesh Singh, S/o Sri Indradeo Singh, Resident of Village- Bhargangi Tola, P.S.- Koilwar, District- Bhojpur at Ara. (Hawaldar No.- 38).
15. Rajeshwar Singh, S/o Sri Ramdeo Singh, Resident of Village- Ramsingh Chatauni, P.S.- Muffasil, District- East Champaran (Motihari), (Hawaldar No.- 47).
16. Mithilesh Kumar, S/o Late Yiwan Thakur, Resident of Village- Deo Bigha,



- P.S.- Belaganj, District- East Champaran (Motihari). (Hawaldar No. 18).
17. Nagin Paswan, S/o Sri Keshwar Das, Resident of Village- Habiullahchak, P.S.- Chandi, District- Nalanda. (Hawaldar No. 34).
 18. Rajkishore Manjhi, S/o Late Jhapas Manjhi, Resident of Village- Janki Nagar, P.S.- Garkha, District- Saran at Chapra. (Hawaldar No. 54).
 19. Vijay Kumar Singh, S/o Late Ramchandra Singh, Resident of Village Nayatola Dedaur, P.S.- Bakhtiyarpur, District- Patna. (Hawaldar No. 15).
 20. Rojaddin Miyan, S/o Md. Idrish Resident of Village- Brahampur, P.S. Bhagwan Bazar, District Saran at Chapra (Hawaldar No. 81)
 21. Suresh Mahto, S/o Late Bisram Mahto, Resident of Village- Vishunpura, P.S.- Muffasil, District Saran at Chapra. (Hawaldar No.43)
 22. Subodh Kumar Singh, S/o Late Parmanand Singh, Resident of Village- Rasalpur, P.S.- Rasalpur (Mohanpur), District- Samastipur. (Hawaldar No. 22)
 23. Jagarnath Gadhi, S/o Sri Jairam Gadhi, Resident of Village- Satrangi, P.S.- Hatia, District- Ranchi, Jharkhand. (Hawaldar No. 55)

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Government 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 Deputy General Inspector of Police, Bihar Military Police, Central Range, Patna.
6. The Principal Secretary, Finance Department, Government of Bihar, Patna.
7. Commandant, Bihar Military Police- 5, Patna- 800014.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Suman Jha, Advocate
For the Resp-State	:	Mr. Seho Shankar Prasad, SC-8 Mr. Anil Kumar, AC to SC-8

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER



4 03-03-2025 Heard Mr. Suman Jha, learned counsel for the petitioners and Mr. Anil Kumar, learned counsel for the State.

2. The petitioners, before this Court, are the Constables working under the Bihar Special Armed Police-5, have approached this Court on being aggrieved with the different memos, as have been mentioned in para-1.(i) of the writ petition and also to hold and declare that the report of Five Men Committee dated 12.03.2019 is not applicable to the petitioners whereby recommendation has been made that in cases where Constables have been promoted to the post of Hawaldar or has been given pay-scale of Rs.4000-6000/- in 1st ACP and has been given benefits of MACP, the Commandant will issue individual show-cause as to why in terms of financial rules, their pay-scale shall be re-fixed to the scale of Rs. 3200-4900/- and after receiving the show-cause, the Commandant will pass appropriate speaking orders in terms of the financial rules whereas the fact is that these petitioners were never given pay-scale of Rs.4000-6000/- as 1st ACP.

3. In the case of **Srikant Dubey @ Shri Kant Dubey and Others v. The State of Bihar and Others (L.P.A. No. 458 of 2021)**, wherein the similarly situated Constables on being aggrieved by the order of the learned Single Judge, had



preferred the appeal, when the recoveries have been sought for from their salaries and pensionary benefits on account of wrong fixation of 1st and 2nd ACPs. The learned Division Bench while allowing the Letters Patent Appeal, directed the concerned respondents to refund the recovered amounts, if any, to the respective appellants within a period of three months and also directed to restore the pay-fixation in the light of the fact that the appellants are entitled to 1st ACP in the year 2002-2003. The Court further directed to proceed to re-fix their pay scale and pension and upon calculation of the difference of amount disburse the same within a period of four months.

4. For proper appreciation of the matter, it would be worth benefiting to encapsulate the relevant paragraph(s) of the judgment dated 26.04.2024 passed in L.P.A. No. 458 of 2021.

“7. It is to be noted that the aforementioned policy decision of asking the Writer Constable and Ordinary Constable to opt for a particular category in the year 2004 was subsequent to the grant of 1st ACP in the year 2002-2003. In other words, with reference to status of the appellants that they were in the cadre of Writer Constable, their names have been considered for the purpose of granting 1st ACP with reference to Assistant Sub Inspector cadre (promotional cadre) from the post of Writer Constable. At this stage, it is necessary to reproduce



paragraph- 661 of the Bihar Police Manual 1978 and it reads as under:-

“661. (a) Classes of Constables.-

Constables shall be distinguished as (I) Writer Constables, and (ii) Ordinary Constables. Those constables who are at least matriculates and have qualified at the competitive examination for promotion to the rank of Assistant Sub-Inspector as per rule 685 shall be known as Writer Constables whose duties will solely be those of a station writer at police-stations and will not be given out door work. He will perform office duties and conduct routine business of the police-station in the absence of the Sub-Inspectors and Assistant Sub- Inspectors for which he shall get an allowance of at least Rs.7 per month.

The strength of such posts in a district for allowance shall be equal to the number of police-stations in a district plus leave and training reserve. Certain number of posts are sanctioned for Criminal Investigation Department and Intelligence Department also for office duties.

(b) By whom appointed- Constables shall be appointed by district Superintendent of Police for which a list will be prepared by the selection Board duly constituted for the purpose.



(c) No direct recruitment shall be made in Railways, Criminal Investigation Department, Intelligence Department and in the ranks of experts such as motor drivers and armourers (For the period of probation, see Rule 668).”

5. Adverting to the aforesaid facts, learned counsel for the petitioners further contended that identical writ petition bearing C.W.J.C. No. 25007 of 2019 (Vinod Kumar Singh & Ors. Vs. The State of Bihar & Ors.) has also come up for consideration before this Court, wherein this Court having taken note of the decision passed in the case of **Srikant Dubey @ Shri Kant Dubey** (supra), has disposed off the writ petition in identical terms of the decision rendered by the learned Division Bench. The case of the petitioners are said to be squarely covered by the judgment rendered in **Srikant Dubey @ Shri Kant Dubey** (supra).

6. At this juncture, learned counsel for the State submitted that the case of the petitioners are required to be considered in the light of the decision of the learned Division Bench of this Court and if the respondent authorities shall find that the case of the petitioners is at par with the appellants of the aforementioned L.P.A. No. 458 of 2021, similar relief shall be granted to them.

7. Having heard the submissions advanced on behalf of the respective parties and taking note of the facts that



the case of the petitioners, *prima facie*, is based on parity, this Court directs the respondent nos. 4 and 7 to consider the claim of the petitioners and on being found favour, extend the benefit of admissible pay scale in the light of the decisions rendered by the learned Division Bench of this Court in **Srikant Dubey @ Shri Kant Dubey** (supra), preferably within a period of twelve weeks from the date of receipt/production of a copy of this order, in accordance with law.

8. The writ petition stand allowed to the extent indicated above.

(Harish Kumar, J)

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