

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3776 of 2025

1. Raj Kumar Singh Son of Late Harischandra Prasad, Resident of B.M.P.- 2, Dehri, P.S. - Dehri on sone, District - Rohtas at present resident of Mahavir Colony, Road No. - 2A, near Mahavir Mandir, P.S.- - Beur, District- Patna.
2. Ranjana Devi, Wife of Rameshwar Jha, Resident of village- Kalsar, P.S.- Dandkhora, District- Katihar.

... .. 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 Special Armed 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 Special Armed 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-2, Dehri, District- Rohtas.
9. The Commandant Bihar Special Armed Police - 7, Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Kumar Praveen, Advocate Mr. Barun Kr. Singh, advocate
For the Respondent/s	:	Ms. Vagisha Pragya Vacaknavi, AC to SC 9 Ms. Sushmita sharma, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL JUDGMENT

Date : 06-01-2026

The petitioners were Constables of Police who retired from service on superannuation on 31st January 2021 and 31st January 2024 respectively. After their retirement, they approached this Court under constitutional writ jurisdiction for



the following reliefs:

“A). To issue an appropriate writ/order/orders, direction/directions in the nature of certiorari for quashing the memo no. 318/P5 dated 24.12.2019 (Annexure-3) issued under the signature of Respondent no.-5 Inspector General of Police (Head Quarter), whereby and where under the pay scale of the petitioners; who has been promoted/granted first ACP in the pay scale of 4000-6000, has been re-fixed in the pay scale of Hawaldar as 3200-4900 with further direction to recover excess payment made to the petitioners, which is contrary to the direction of the Director General of Bihar Military Police (BMP), Patna contained in memo no. 147 dated 18.10.2019 (Annexure-2) and also in teeth of Hon’ble Apex Court Judgment in the case of State of Punjab & Ors. vs. Rafiq Masih; reported in (2014) 4 PLJR 37 SC.

B.) For that the respondent authorities may kindly be directed to considered the case of the petitioners in the light of order dated 02.09.2024 passed by this Hon’ble Court in CWJC No. 8062/2021 in which the learned court had considered the all judgments of this Hon’ble Court as well as the Hon’ble apex Court in the matter



of other exactly similarly situated persons who have come before this Hon'ble Court for the refund of the amount which has been arbitrarily deducted from their post-retirement benefits, petitioners have also come before this Hon'ble Court for the same relief/direction of refund of the amount which has been deducted from their post-retirement benefits by the respondent authorities with further direction to re-fix the pension of the petitioners in the light of judgment rendered by this Hon'ble Court in L.P.A. No.- 458/2021.

C). For any other relief/s to which the petitioners are found entitled by this Hon'ble Court."

2. Suffice it to say that, by virtue of an order dated 24th December, Inspector General of Police, Bihar, the petitioners were directed to make refund of certain amount of post-retiral benefit, viz., 4,28,362/- (Four Lakh Twenty Eight Thousand Three Hundred Sixty Two) and 3,74,754/- (Three Lakh Seventy Four Thousand Seven Hundred Fifty Four) from the post-retiral benefit of PW-2. Learned Advocate General for the petitioners submits that the issue as to whether any amount of post-retiral benefit can be deducted or not has been well-settled in LPA 458 of 2021 in CWJC No. 1744 of 2020,



(Srikant Dubey and Ors. Vs. The State of Bihar and Ors.).

3. The learned Advocate on behalf of the petitioners also refers to another unreported decision of this Court passed in ***Saheb Sharan Das Vs. The State of Bihar and Ors. (CWJC No. 8062 of 2021)*** decided on 02nd December 2024.

4. It is submitted by the learned Advocate for the petitioners that the petitioner no. 1 has already superannuated on 31.01.2024 and the husband of the petitioner no. 2 has superannuated on 31st January 2021, therefore, any recovery of post-retiral benefit in the teeth of the mandate of the Hon'ble Apex Court in the case of ***State of Punjab v. Rafiq Masih reported in (2015) 4 SCC 334***, and ***Thomas Daniel v. State of Kerala, 2022 SCC OnLine SC 536***. Similar issue was considered by the Division Bench of this Court in **LPA No. 458 of 2021** vide judgment dated **26th April 2024** and it was held by the Division Bench relying on the decision in the ***Amresh Kumar Singh & Ors. Vs. State of Bihar and Ors.*** reported in **2023 (2) PLJR (SC) 423** that for claiming ACP benefit, employee need not fulfill the eligibility criteria for promotion to the next higher cadre. In other words, if an employee is stagnated in a particular cadre for 12 and 24 years, he is entitled to get the next promotional scale. The post-retiral benefit of the



petitioners in the instant case was computed on the basis of their promotional ACP, as they did not have any scope of promotion during the stipulated period of 12-24 years.

5. The learned Advocate on behalf of the State, on the other hand, submits that the case of the petitioners is required to be considered in the light of the decision as passed by the Division Bench in LPA No. 458 of 2021, if the respondent authorities find the case of the petitioners at par with the appellants of the aforesaid appeal, the post-retiral benefit of the petitioners cannot be withheld. The learned Advocate for the State frankly submits that after *Rafique Masih's* case which was followed by the Hon'ble Supreme Court in subsequent judgments, she has nothing more to state.

6. On due consideration of the submissions made by the learned counsels for the petitioners and the State, and taking note of the decision of the Hon'ble Apex Court as well as of this Court, it is found that the case of the petitioners is based on parity. Therefore, the respondents are directed to restore the recovery amount in favour of the petitioners within eight weeks from the date of communication of this order and re-fix the pensionary benefits of the petitioners in light of the decision rendered by the Division Bench of this Court in LPA No. 458 of



2021.

7. The instant writ petition is thus, allowed on contest
to the extent as above.

(Bibek Chaudhuri, J)

suraj/-

AFR/NAFR	NAFR
CAV DATE	N/A
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