

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1586 of 2022

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1. Jalim Paswan S/o Late Kushar Paswan, Resident of Vilalge Mathwliya, P.O. Daulatpur P.S. Arrah Mufassil, District Bhojpur.
 2. Om Prakash Paswan S/o Sri Jalim Paswan Resident of Village Mathwliya, P.O. Daulatpur P.S. Arrah (Mufassil), District Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through its Additional Secretary, Grih Arakshi Vibhag, Govt. of Bihar, Patna
2. The District Magistrate, Bhojpur, Arrah.
3. The Superintendent of Police, Bhojpur, Arrah.
4. The Circle Officer, Sadar Anchal, District-Bhojpur.
5. The Officer-in-Charge, Arrah Mufassil Police Station, District-Bhojpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Kumar Dharendra Pratap Singh, Advocate
For the Respondent/s	:	Mr. Md. N.H. Khan, SC- 1

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 16-03-2026

Heard learned counsel for the parties.

2. The petitioner has filed the instant application for
the following reliefs:

*“1. I. For issuance of writ
in the nature of Mandamus or any
other appropriate writ / order /
direction to the Respondents to
appoint Petitioner no.2 in place of his
father Petitioner no.1 for the post of
Chaukidar in Circle office, Sadar
Arrah, Bhojpur in the light of Rule*



5(7) of Bihar Chaukidar Cadre (Amendment) Act.

II. For issuance of an appropriate writ in the nature of Mandamus or any other appropriate writ / order / direction commanding the respondents to refund the amount recovered from petitioner no.1, the salary paid to him against the services/ duty rendered by him for the extra four months as the respondents failed to communicate / intimate petitioner no.1 his official date of retirement and kept him engaged in duty from April 2016 to 31st July 2016.

III. For issuance of any other appropriate order / orders, direction / directions as your lordship may deem fit and proper in the facts and circumstances of the case.”

3. So far as the prayer of the petitioners to appoint petitioner no.2 in place of his father (petitioner no.1) on the post of chaukidar is concerned, reliance is placed by learned counsel for the petitioners in the notification dated 5.3.2014 of the State Government as contained in Annexure-5 to the writ application.

4. Learned counsel appearing for the State of Bihar submits that by judgment in the case of Devmuni Paswan vs.



State of Bihar & Ors.; 2023 (2) PLJR 425, this Court has set aside the said provision/Rules holding the same to be violative of Articles 14 and 16 of the Constitution. Further the SLP preferred in the Hon'ble Supreme Court against the judgment in the case of Devmuni Paswan (supra) has also been dismissed.

5. Learned counsel for the petitioner further submits that petitioner no.1 who was working as a chaukidar was scheduled to retire on 31.3.2016, however not being aware of the same nor having been informed by the respondent authorities, he continued to work for several months thereafter.

6. It is submission on behalf of the petitioners that the fact that the petitioner no.1 continued to work is not in controversy. However, the respondents recovered the salary paid to the petitioner no.1 for the period April, 2016 to 31st July, 2016 from the post retirement benefits payable to the petitioner no.1. It is further submitted by learned counsel for the petitioner that as per oral instructions received, petitioner no.1 has died during pendency of the instant application.

7. Without going into the merits of the case, so far as recovery of the salary for the excess period that the petitioner no.1 worked after his retirement is concerned, it is observed that the petitioner no.1 and/or his heir i.e. the petitioner no.2 will be



at liberty to file a representation before the District Magistrate, Bhojpur, Arrah (respondent no.2) with respect to the deduction of salary for the excess period that the petitioner no.1 had worked.

8. On filing of the same, the respondent no.2 shall consider and decide the same in accordance with law within a period of three months from the date of its filing.

9. In case the representation of the petitioner finds favour with the respondent concerned, the amount recovered from the post retiral dues of the petitioner no.1 shall be returned to him or his heirs and in case the representation does not find favour with the respondent no.2, a reasoned order for the same shall be communicated to the petitioner no.2 within the aforesaid period.

10. The writ application stands disposed off.

(Partha Sarthy, J)

saurovkrishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.3.2026
Transmission Date	NA

