

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21006 of 2021

1. Shaukat Ali Khan Son of Makhsud Khan, resident of Village - Tajpur Kurra, P.O. - Dildar Nagar, P.S.- Ghazipur, District - Zamania (U.P.), Pin Code - 232326.
2. Guriya Khatun, Daughter of Md Jahangir Khan, resident of Bandarjori Majistat Colony, P.O. and P.S. and District - Dumka, Jharkhand, Pin Code - 814101.
3. Bandana Kumari daughter of Mohan Sah, resident of Sahatola Chaviyari Ev Chauvaniya, P.O. - Musahari, P.S.- Patarghat, District - Saharsa, Pin Code - 852107.
4. Khusboo Kumari care of Chandeshwar Prasad, resident of Bihari Path, P.O. - G.P.O., P.S.- Jakkanpur, District - Patna, Pin Code - 800001.
5. Priti Kumari, Wife of Awakash Kumar, resident of House No. 224, Near Railway Gumati, P.O. - New Gopalpur, P.S. and District - Motihari, East Champaran, Pin Code - 845401.
6. Priyanka Kumari daughter of Shambhu Prasad Singh, resident of P.O.- Sangopatti, P.S. - Sakra, District - Muzaffarpur, Pin Code - 843119.
7. Mohammad Rafi, Son of Md. Kazeem Gaddi, resident of Leather Factory, Central School, Mohalla - Vasant Vihar, P.O.- Bettiah, P.S.- Muffashil, District - Pashchim Champaran, Pin Code - 845438.
8. Arbind Kumar, Son of Ramesh Paswan, resident of Barli, P.O. - Mauhatta, P.S. Karamachat (Sabar), District- Kaimur (Bhabhua), Pin Code - 821104.
9. Guddu Kumar Ram Son of Manjik Chand Ram, resident of P.O. - Amarapur, P.S. and District - Siwan, Pin Code - 841234.
10. Saurav Suman, Son of Shyamrathi Yadav, resident of Ward No. 07, P.O. - Paniyarachak, P.S. Pattam, District - Munger, Pin Code - 811214.
11. Abhishek Kumar, Son of Shyam Kumar, resident of Sakra, P.O. and P.S.- Saraiya, District - Muzaffarpur, Pin Code - 843119.
12. Deepnarayan Mahato, Son of Balbhadra Mahato, resident of Daruabari, P.O. and P.S.- Bhaisalotan, District - West Champaran, Pin Code - 845107.
13. Ajeet Kumar, Son of Jai Prakash Singh, resident of Mohaddiganj, P.O. and P.S. Sasaram, District - Rohtas, Pin Code - 821115.
14. Sanjay Yadav, Son of resident of P.O. - Khodaibari, P.S.- Gopalpur, District - Siwan, Pin Code - 841286.
15. Gopal Kumar, Son of Ishwar Prasad, resident of P.O. - Bhagwatipur, P.S. - Karmor, District - Patna, Pin Code - 803214.
16. Satyendra Orwan, Son of Late Ram Naresh Orwan, resident of P.O. - Jainagra, P.S.- Harnamar, District - Palamu (Jharkhand) Pin Code - 822110.
17. Bikash Chandra Rai, Son of Mansing Dawali Rai, resident of Main Road Kalimpong below Prince Tailor, Darjelling, P.O. and P.S. and District - Kalimpong, West Bengal, Pin Code - 734301.
18. Pankaj Kumar, Son of Jagannath Patel, resident of Village and P.O. - Panapur Langa, P.S. Hajipur Sadar, District- Vaishali, Pin Code - 844124.

19. Rupesh Thapa, Son of Khem Bahadur Thapa, resident of 482, Near Shiv Mandir, Village and P.O. - Brahmpuri, P.S. Majra, District - Dehradun (Uttarakhand) Pin Code - 248171.
20. Ram Surat Singh Son of Ramnath Singh, resident of Tahal Tola, P.O. and P.S.- Dhanaut, District - Patna, Bihar, Pin Code - 801506.
21. Akash Kumar Son of Tej Bahadur Paswan, resident of Basaur, P.O. - Bhagwanganj, P.S. - Daulatpur, District - Patna, Pin Code - 804452.
22. Parshuram Dubey, Son of Late Satyanarayan Dubey, resident of Village-Dehri Dih, P.O. - Somo, P.S.- Khaira, District - Jamui, Pin Code - 811314.
23. Akhilesh Prasad, Son of Tukkan Prasad, resident of Village - Narmaamath, P.O. and P.S.- Dhanaut, District - Patna, Pin Code - 801506.
24. Sachindra Kumar Mishra, Son of Tarakant Mishra, resident of Ward No. 09, P.O. and P.S.- Rasian, District - Darbhanga, Pin Code - 847427.
25. Vijesh Prasad Gupta, Son of Mangal Prasad Gupta, resident of Village-Bhopatpur, P.O. and P.S. - Sirpalpur, District - Bhojpur, Pin Code - 802314.
26. Rajesh Kumar Singh, Son of Lalan Prasad Singh, resident of Bhagwatpur, P.O. - Bhaluahiya, P.S. - Dhaka, District - East Champaran, Pin Code - 845418.
27. Niranjan Kumar, Son of Ramanand Prasad Yadav, resident of Gumti No. 6, P.O. - Sandalpur, P.S. - Jamalpur, District - Munger, Pin Code - 811201.
28. Inteshar Khan, Son of Nisar Ahmad Khan, resident of Village - Naina Ghat, P.O. and P.S.- Bhalpatti, District - Darbhanga, Pin Code - 847239.
29. Kamlesh Kumar Sharma, Son of Ragho Sharma, resident of P.O. and P.S.- Durondha, District - Bhojpur, Pin Code - 802156.
30. Uttam Kumar, Son of Chhaththi Lal, resident of village - Jalalpur, P.O. - Rasalpura, P.S.- Rasalpura, District - Saran, Pin Code - 841211.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Home (Police) Department, Bihar, Patna.
2. Additional Chief Secretary, Finance Department, Bihar, Patna.
3. Director General of Police, Bihar, Patna.
4. Additional Director General of Police, Anti-Terrorist Squad, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhinav Srivastava, Sr. Advocate Mr. Helal Ahmad, Advocate Md. Tahmeed Helal, Advocate Mr. Fakhra Tanaz Akhter, Advocate
For the Respondent/s	:	Mr. Md. Nadim Seraj (Gp5) Mr. Shailesh Kumar, AC to GP- 5

CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL JUDGMENT

Date : 06-05-2026

Heard Mr. Helal Ahmed, learned counsel for the petitioner and Mr. Shailesh Kumar, learned counsel for the State.

2. The petitioners, who are 30 in numbers are said to be police personnels working in different positions and ranks in Bihar Police. The grievances of the petitioners is that they have not been paid “risk allowance” as per the provisions contained in Bihar Anti Terrorist Squad Rules, 2014 for the period they remained with the Anti Terrorist Squad (hereinafter referred to as ‘ATS’).

3. It is the case of the petitioners that they have remained and worked as ATS at different points of time. The petitioner Nos. 1 and 25, in the meanwhile, have retired.

4. In support of their claim for payment of “risk allowance”, the petitioners have relied on Rule 20(1) and Appendix I(iii) of the Bihar Anti Terrorist Squad Rules, 2024 (Annexure – 2).

4. **Rule 20(1) and Appendix I (iii)** of the Bihar Anti Terrorist Squad Rules, 2024 reads as follows:

“...20. Miscellaneous – (1) The State Government has declared the duty charter enjoined upon the personnel of the Squad as extremely High-Risk, who shall therefore, be entitled for special risk allowance as notified by the State Government...”

“...Appendix I (iii) The personnel of ATS will be entitled for the 30 % (thirty percent) of their basic pay as risk allowance...”

5. The respondents have contested the case by filing counter affidavits by respondent No. 1 and respondent Nos. 3 and 4 and also a supplementary counter affidavit by respondent Nos. 3 and 4.

However, in none of the counter affidavits filed by the respondents the entitlement of “risk allowance” by the petitioners in terms of Rule 20(1) and Appendix I(iii) of the Bihar Anti Terrorist Squad Rules, 2024 have been denied. The only contention raised by the respondents in the counter affidavits and the supplementary counter affidavit is that the “risk allowance” could not be paid to the petitioners for want of approval by the Finance Department.

6. The petitioners, in the meanwhile, have filed I.A. No. 1 of 2025 challenging the order dated 04.09.2025 vide Memo No. 3ए-3-भत्ता-03/2025-9539/वि०, issued by the Secretary, Finance Department, Government of Bihar, whereby a consolidated amount of Rs. 25,000 (maximum) has been proposed to be paid as “risk allowance” to those who are working /deputed as ATS instead of 30% (thirty percent) of the basic pay as “risk allowance”.

7. The learned counsel for the State has submitted that he has not received any instructions in the I.A..The record, however,

reveals that the I.A. was filed on 13.11.2025 with a copy served upon learned counsel for the State on 14.11.2025.

Despite the I.A. No. 01 of 2025 having been served upon the learned counsel for the State on 14.11.2025, no counter affidavit has been filed by the State on the I.A. No. 01 of 2025.

8. On examination of Rule 20(1) and Appendix I(iii) of the Bihar Anti Terrorist Squad Rules, 2024 as quoted hereinabove, it appears that the State Government has declared that the duty charter enjoined upon the personnel of the Anti Terrorist Squad as extremely High-Risk and, therefore, they have been made entitled to “risk allowance” as may be notified by the State Government. In terms of the Rule 20(1) and Appendix I(iii) of the Bihar Anti Terrorist Squad Rules, 2024 it has been provided in Appendix I(iii) by the Joint Secretary to the Government that the personnel of ATS will be entitled to 30% (thirty percent) of the basic pay as “risk allowance”.

9. It, thus, appears that the Bihar Anti Terrorist Squad Rules, 2024 provides for payment of 30% of the basic pay of the personnel working with the ATS as “risk allowance”. The respondents in the counter affidavits and in the supplementary counter affidavit filed have not denied the statutory entitlement of 30% (thirty percent) of the basic pay as “risk allowance” by the personnel working with the ATS in terms of Rule 20(1) and Appendix I(iii) of the Bihar Anti Terrorist Squad Rules, 2024.

10. It, therefore, is evident that the entitlement of 30% (thirty percent) of the basic pay of the personnel working in the ATS as “risk allowance” has been statutorily prescribed by the Bihar Anti Terrorist Squad Rules, 2024. If the entitlement of 30% of the basic pay as “risk allowance” has been provided under the Rule 20(1) and Appendix I(iii) of the Bihar Anti Terrorist Squad Rules, 2024; the Secretary, Finance Department, Government of Bihar could not have issued the order dated 04.09.2025 vide Memo No. 3ए-3-भत्ता-03/2025-9539/वि०ए which is an executive order, providing a consolidated amount of Rs. 25,000 (maximum) as “risk allowance” to the personnel of ATS contrary to the statutory prescription of 30% of the basic pay.

11. Since the order dated 04.09.2025 vide Memo No. 3ए-3-भत्ता-03/2025-9539/वि० issued by the Secretary, Finance Department, Government of Bihar (Annexure – 6 to the I.A. No. 1 of 2025) is found to be contrary to the provisions contained in Rule 20(1) and Appendix I(iii) of the Bihar Anti Terrorist Squad Rules, 2024, the same cannot be held to be validly issued in the eye of law and is liable to be set aside and quashed.

12. Accordingly, order dated 04.09.2025 vide Memo No. 3ए-3-भत्ता-03/2025-9539/वि० issued by the Secretary, Finance Department, Government of Bihar (Annexure No. 6 to the I.A. No. 1 of 2025) is set aside and quashed.

13. The petitioners are found to be entitled to 30% (thirty percent) of the basic pay for the period they have worked with the ATS in terms of Rule 20(1) and Appendix I(iii) of the Bihar Anti Terrorist Squad Rules, 2024 as “risk allowance”.

14. Since the petitioners have not indicated as to at which point of time they have worked with the ATS, this writ petition is hereby disposed off with a direction to the respondents to verify the period the petitioners have worked as ATS and thereafter pay the “risk allowance”, as mandated under Rule 20(1) and Appendix I(iii) of the Bihar Anti Terrorist Squad Rules, 2024.

15. The payment, as directed above, shall be made within a period of two months from the date of receipt of certified copy of this order.

16. The writ petition is disposed off with the above directions.

(Nani Tagia, J)

Siddharth
Sagar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.05.2026
Transmission Date	NA