

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14247 of 2023

1. Ganauri Singh Son of Shiv Singh, Resident of village Siki Kalan, P.S. and District - Palamu (Jharkhand).
2. Anil Prasad Mandal, son of Shahavir Mandal, Resident of village - Rangra, P.S.- Rangra Chowk, District - Bhagalpur.
3. Pramod Kumar Jha, son of Sachchidanand Jha, Resident of village- Barail, P.S. and District - Supaul.
4. Shambhu Sharma, son of Ram Prasad Sharma, Resident of village- Krishna Nagar, Ward No.- 22, P.S. and District - Saharsa.
5. Bipin Kumar, son of Nunulal Singh, Resident of village- Thera Jalalpur, P.S. - Warisaliganj, District - Nawada.
6. Ram Prasad Yadav, son of Devnath Yadav, Resident of village - Gareya, Bemari, P.S. and District - Bhojpur.
7. Md. Jabir Khan, Son of Md. Ayub Khan, Resident of village - Kabhari, P.S. - Biraul, District - Darbhanga.
8. Satya Narayan Mallah, son of Mangal Mallah, Resident of village- Karuwali, P.S. - Kumarkhand, District - Madhepura.
9. Binod Kumar Singh, son of Jayvallabh Prasad Singh, Resident of village - Rauta Khem, P.S. - Sour Bazar, District - Saharsa.
10. Shambhu Kumar Gupta, son of Jay Narayan Gupta, Resident of village- Jay Prakash Nagar, Ward No. - 6, P.S. and District - Madhepura.
11. Koshal Kumar, Son of Uday Singh, Resident of Police adda, Ward no- 6 Bhelia Bigha, P.S. - Tekari, District - Gaya.
12. Vincent Soreng, son of Bilacius Soreng, Resident of Purna Pani ghosra, P.S.- Simdega, District - Simdega (Jharkhand).
13. Punil Kumar Singh, son of Ramawatar Singh, Resident of village- Raghobpur, P.S.- Raghobpur, District - Supaul.
14. Krishan Kumar Yadav, son of Rambaran Yadav, Resident of village - Rahimpur, P.S. and District - Khagaria.
15. Bindeshwar Singh, son of Husaini Singh, Resident of Ward No. - 8, Ramgdhwa, P.S. - Ramgdhwa, District- East Champaran.
16. Mannu Yadav, son of Shambhu Yadav, Resident of Pakargram, Ward No.- 14, P.S. and District - West Champaran.
17. Santosh Kumar, son of Damodar Thakur, Resident of village - Katariya, P.S. - Kursela, 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 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.

... .. Respondent/s

Appearance :

For the Petitioners	:	Mr. Kumar Praveen, Advocate Mr. Barun Kumar Singh, Advocate
For the State	:	Mr. Nadim Seraj (G.P.-5) Mr. Shailesh Kumar, A.C. to G.P.-5

CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL ORDER

4 24-02-2026 Heard the parties.

2. The present writ petition has been filed 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-9) 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 for last about 10 years, 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-8) 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). To issue appropriate writ/s, order/s direction/s to call for and set aside the consequential order issued in the file by the Commandant BMP-12 (Respondent No-8) where-under in terms of the order issued through memo no. 318/P5 dated 24.12.2019 (Annexure-9), the claim of the petitioners for higher pay scale which was already being given to them since long, has been rejected and recovery is being made from the salary of



all these petitioners with effect from March 2020. Copy of said consequential order passed by the Commandant BMP-12 is not being made available to the petitioners despite demand and recovery has been initiated.

C). To issue appropriate writ/s order/s direction in the nature of mandamus commanding the respondents to re-fix the pay scale of the petitioners in the scale of 4000-6000; as a first ACP in the scale of ASI and to grant the benefits of MACP which was being paid to the petitioners since long in the scale of 4000-6000 prior to the issuance of impugned order, in place of pay scale of 3200-4900 fixed in terms of memo no. 318/P-5 dated 24.12.2019 by the order of the Inspector General of Police (Head Quarter), Bihar.

D) To issue an appropriate writ/s order/s direction/s in the nature of



mandamus commanding the respondents/commandant BMP-12 not to give effect the decision taken by the Inspector General of Police (Head Quarter), Bihar through memo no. 318/P-5 dated 24.12.2019 and not to proceed with the recovery from the salaries of the petitioners in terms of said order dated 24.12.2019.

E) To declare and hold that the petitioners come under the literate cadre (Matriculate) and accordingly, they are entitled to get first ACP in the pay scale 4000-6000 against the post of ASI and the second ACP in the scale of 5500-9000 against the post of SI.

3. The learned counsel for the petitioners submits that the petitioners were appointed as constable in BMP-12 in between the year 1986 to 1988. The petitioners, in terms of the government circulars and letters and the ACP/MACP Rules were given the benefit of 1st and 2nd ACP and second MACP. Accordingly their pay-fixation was also done and they were



getting the benefits of the same in terms of the ACP/MACP Scheme in the pay scale of Rs.4000-6000/-. Subsequently, the respondents came out with an Office Order contained in Memo No. 4377/P-3 dated 07.04.2017 by which a general direction was issued to all the commandants of BMP to review the cases of such constables, who have been granted promotion to the post of Hawaldar and were granted 1st ACP in the pay scale of Rs.4000-6000/- and forward a report to the police Headquarters, in terms of the order passed in ***C.W.J.C. No. 14190 of 2016 Jai Ram Prasad Singh vs. State of Bihar and Ors.***

4. The learned counsel for the petitioners further submits that in compliance thereof all of a sudden vide different orders the pay scale of Rs.4000-6000/-, which was granted to the petitioners and similarly situated other employees, were withdrawn and the same was reduced to the lower pay scale of Rs.3200-4900/- and a direction was given for adjustment of the excess amount, if any, from their salary/pension. Some of the similarly situated employees including some of the petitioners preferred ***C.W.J.C. No. 16311 of 2017 Narayan Prasad and Ors. Vs. State of Bihar and Ors.*** wherein a prayer was made to grant benefit of the pay scale of Rs.4000-6000/- to the petitioners, like other similarly situated employees. The said



writ petition was heard along with other analogous cases by a Co-ordinate Bench of this Court. All the writ petitions were allowed by common order dated 03.12.2018, quashing the respective impugned orders of recovery and the matter was remitted back to the respondent authorities for fresh consideration.

5. The learned counsel for the petitioner further submits that a committee was constituted under the chairmanship of Sri Sanjeev Kumar Singhal, IPS, the then Director General, Military Police, Bihar, Patna along with other members and finally on 12.03.2019 a recommendation was made to issue show cause notices to such constables who were granted promotion to the post of Hawaldar and were granted the benefits of 1st ACP. in the pay scale of Rs.4000-6000/-. In compliance thereof show cause notices were issued and thereafter, the petitioners filed their respective show cause reply before the competent authority. Finally the matter reached this Court and a Co-ordinate Bench of this Court in ***C.W.J.C. No. 1744 of 2020*** after hearing the parties vide judgment dated 16.04.2021 dismissed the writ petition along with its analogous cases. The petitioners of those writ petitions being aggrieved with the judgment dated 16.04.2021 passed in ***C.W.J.C. No.***



1744 of 2020 preferred an appeal before this Court, which was numbered as *L.P.A. No. 458 of 2021*. The appeal was finally heard by Hon'ble Division Bench of this Court and vide order dated 26.04.2024 the Hon'ble Division Bench was pleased to direct to refund the recovered amounts, if any, to the respective appellants within a period of three months from the date of receipt of copy of the order and further directed to restore the pay-fixation in the light of the fact that the appellants of that appeal were entitled to 1st ACP in the year 2002-2003, further directed the respondent authorities to proceed to re-fix their pay/pension and difference of amount was directed to be calculated and disbursed within a period of four months and further proceeded to allow the Letters Patent Appeal by setting aside the order dated 16.04.2021 passed in *C.W.J.C. No. 6910 of 2020* and its analogous cases.

6. The learned counsel for the respondent-State fairly submits that case of the petitioners is squarely covered by the judgment dated 26.04.2024 passed by the learned Division Bench in *L.P.A. No. 458 of 2021*.

7. Having heard the parties and after going through the materials available on record, I find that the present case is squarely covered by the judgment dated 26.04.2024 passed in



L.P.A. No. 458 of 2021. In view thereof, the order contained in Memo No. 318/P-5 dated 24.12.2019 issued under the signature of the Inspector General of Police (Headquarters), Patna, is hereby set aside. The petitioners shall be entitled to all the benefits which has been granted to the similarly situated persons in *L.P.A. No. 458 of 2021* i.e. to refund the recovered amount, if any, to the respective petitioners within a period of three months from the date of receipts/production of a copy of the order and to restore the pay-fixation in view of the fact that the petitioners are entitled to 1st A.C.P. as has been given to similarly situated employees who had preferred *L.P.A. No. 458 of 2021*. The respondent authorities shall further proceed to re-fix the pay and pension and will calculate the difference of amount to the petitioners and the same shall be disbursed within a period of four months.

8. The writ petition is allowed in the aforementioned terms.

9. Pending applications, if any, shall stand disposed of.

(Ritesh Kumar, J)

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