

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4620 of 2025

1. Dashrath Prasad Singh S/o- Late Ramadhar Singh, R/o- village- Lahang Dumariya, P.S.- Bihiya, District- Bhojpur.
2. Md. Samsuddin Rajak, S/o- Late Md. Aziz, R/o- Lohiya Path, P.S.- Rupaspur, District- Patna.
3. Ashok Kumar Tiwari, S/o- Satya Narayan Tiwari, R/o- Maa Tempal, Patadhi, P.S.- Bari, District- Rohtas, Sasaram.
4. Ranjeet Rajak, S/o- Shyam Narayan Rajak, R/o- Village- Narauli, P.S.- Salimpur, District- Patna.
5. Arun Kumar Singh, S/o- Late Ram Swaroop Singh, R/o- Village- Khetalpura, P.S.-Sare, District- Nalanda.
6. Suresh Yadav, S/o- Late Harihar Yadav, R/o- Village- Rupuchak Bisaha, P.S.-Pathargama, District- Godda (Jharkhand).
7. Kapildev Mandal, S/o- Basudev Mandal, R/o- Siz Dilarpur, P.S.- Manihari, District- Katihar.
8. Ravishankar, S/o- Raj Kishore Singh, R/o- Village- Lohiya Nagar, P.S.- Lohiya Nagar (Town), District- Begusarai.
9. Umesh Sharma, S/o- Late Dev Nandan Singh, R/o- Village- Nonhi, P.S.- Kako, District- Jehanabad.
10. Bimal Ram, S/o- Mahanand Ram, R/o- Village- Baruna, P.S.- Narayanpur, District- Bhojpur (Arrah).
11. Umesh Yadav, S/o- Late Akalu Yadav, R/o- Village- Mahadev Bigha, P.S.- Warsiliganj, District- Nawada.
12. Birendra Kumar, S/o- Mundrika Singh, R/o- Village- Dumri, P.S.- Ghoshi, District-Jehanabad.
13. Murari Kumar Dubey, S/o- Late Sita Ram Dubey, R/o- Village- Mahachak, P.S.- Atri, District- Gaya.
14. Awadh Bihari Singh, S/o- Kedar Singh, R/o- Village- Dumariya, P.S.- Tarari, District-Bhojpur.
15. Arun Kumar, S/o- Late Ram Krishna Chaudhary, R/o- Village- Rahimpur, Pachkhutti, P.S.- Mufassil (Khagaria), District- Khagaria.
16. Prayag Prasad, S/o- Ragho Prasad, R/o- Village- Budhaul, P.S.- Bodh Gaya, District- Gaya.
17. Rakesh Kumar Nirala, S/o- Kameshwar Yadav, R/o- Village- Meghipur, P.S.- Pakri Barawaon, District- Nawada.
18. Umesh Mandal, S/o- Mukhlal Prasad, R/o- Village- Uman Bigha, P.S.- Wajirganj, District- Gaya.
19. Jayram Sharma, S/o- Late Ram Padarth Sharma, R/o- Village- Govindpur, P.S.- Ghoshi, District- Jehanabad.
20. Kameshwar Ram, S/o- Jugal Ram, R/o- Village- Nasej, P.S.- Kudra, District- Bhabhua (Kaimur).



21. Birsai Gorai, S/o- Dinbandhu Gorai, R/o- Village- Chitodih, P.S.- Bundu, District- Ranchi (Jharkhand).
22. Kishor Kumar Goswami, S/o- Jaga Bandhu Goswami, R/o- Village- Ketari Bagan Road No.-8, P.S.- Namkum, District- Ranchi, (Jharkhand).
23. Sanjay Kumar Singh, S/o- Late Sidheshwar Singh, R/o- Village- Daulatpur Dih, P.S.- Gaurichak, District- Patna.
24. Janak Ram, S/o- Thakur Ram, R/o- Village- Saraiya, P.S.- Husainganj, District-Siwan.
25. Akhilesh Kumar Yadav, S/o- Subhash Singh, R/o- Village- Shahbazpur, P.S.- Shakurabad, District- Jehanabad.
26. Rakesh Kumar Singh, S/o- Late Rajnandan Singh, R/o- Village- Walidad, P.S.- Mehandiya, District-Arwal (Jehanabad).
27. Sachidanand Singh, S/o- Late Banarsi Singh, R/o- Village- Naya Tola, Harnahiya, P.S.-Bakhtiyarpur, District- Patna.
28. Bhagrashan Ram, S/o- Tapasi Ram, R/o- Village- Lakshumanwan, Ahirauliya, P.S.-Ramgadhva, District- East Champaran (Motihari).
29. Kauleshwar Ram, S/o- Banshi Ram, R/o- Village- Deokuli, P.S.- Ichack, District-Hazaribagh (Jharkhand).
30. Ramashrya Prasad, S/o- Late Harihar Singh, Village Manjhauli, P.S.- Wazirganj, District- Gaya.
31. Ram Bahadur Ram, S/o- Dharichhan Ram, R/o- Village- Rashid Chak, P.S.- Husainganj, District- Siwan.
32. Dineshwar Manjhi, S/o- Radhe Manjhi, R/o- Barki Dhawari, P.S.- Sahajitpur, District-Saran (Chapra).
33. Roshan Lal Mahto, S/o- Late Ishwar Mahto, R/o- Village- Chatra, P.S.- Tatisilwe, District- Ranchi (Jharkhand).
34. Vishwanath Choudhary, S/o- Late Rajendra Prasad Choudhary, R/o- Mitha Kuan, Dhanaut Colony, Vikash Nagar, P.S.- Rupaspur, District- Patna.
35. Sunil Kumar Singh, S/o- Hardeep Singh, R/o- Kobil, P.S.- Islampur, District- Nalanda.
36. Sanjay Sharma, S/o- Late Satish Chandra Sharma, R/o- Village- Bhoari, P.S.- Tekari, District- Gaya.
37. Shankar Prasad Singh, S/o- Late Baleshwar Prasad Singh, R/o- Village- Barki Beri, P.S.- Mohiuddinnagar, District- Samastipur.
38. Manokamna Singh, S/o- Late Raj Dev Singh, R/o- Village- Bajitpur, P.S.- Marhaura, District- Saran (Chapra).
39. Md. Toufik Alam, S/o- Late Abdul Rahim, R/o- Village- Baida, Ward No.- 09, P.S.-Amdabad, District- Katihar.
40. Kamta Singh, S/o- Brij Bihari Singh, At present R/o- 343, Vinoba Path, St. Vinoba High School, Keshari Nagar, Phulwari, P.S.-Phulwari, District- Patna.
41. Rajiv Kumar, S/o- Chandradeo Singh, R/o- Village- Pitamberpur, P.S.- Ghoshi, District- Jehanabad.
42. Ranjeet Kumar, S/o- Krishn Dev Prasad, R/o- Village- Kharjamma, Maghra,



P.S.- Dipnagar, District- Nalanda.

43. Raj Kumar, S/o- Dalsigar Ram, R/o- Village- Dayalpur, P.S.- Alinagar, District-Chandauli (U.P.).
44. Rambahadur Ray, S/o- Late Ramadhar Ray, R/o- Village- Rewatiya, P.S.- Murar, District-Buxar.
45. Ram Charan Singh, S/o- Late Banke Bihari, R/o- Village- Kunda Khurd, P.S.- Mugalsarai, District- Chandauli (U.P.).
46. Satyendra Dubey, S/o- Late Ram Jabit Dubey, R/o- Village- Unwans, P.S.- Itarhi, District- Buxar.
47. Rajiv Kumar Ranjan, S/o- Late Kamleshwari Prasad, R/o- Village- Badlachak, P.S.- Belhar, District- Banka.
48. Anil Kumar Singh, S/o- Late Ram Byas Singh, R/o- Village- Emilia, P.S.- Ramgarh, District- Bhabhua (Kaimur).
49. Ajay Kumar, S/o- Jawahar Prasad, R/o- Village- Nimej, P.S.- Brahampur, District- Buxar.
50. Md. Hadish Khan, S/o- Kamrujama Khan, R/o- Village and P.S.- Bikramganj, District-Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Govt. of Bihar, Patna.
2. The Director General of Police, Bihar, Patna, Patel Bhawan, Bailey Road, Patna.
3. The Director General of Police, Bihar Special Arms Police (BSAP), Patna.
4. The Inspector General of Police, B.S.A.P, Bihar, Patna.
5. The Deputy Inspector General of Police B.S.A.P. (Central Range), Patna.
6. The Deputy Inspector General of Police B.S.A.P. (Northern Range), Muzaffarpur.
7. The Commandant, Bihar Special Arms Police-03, Gaya.
8. The Commandant, Bihar Special Arms Police-04, Dumraon.
9. The Commandant, Bihar Special Arms Police-05, Patna.
10. The Commandant, Bihar Special Arms Police-07, Katihar.
11. The Commandant, Bihar Special Arms Police-08, Begusarai.
12. The Commandant, Bihar Special Arms Police-10, Patna.
13. The Commandant, Bihar Special Arms Police-11, Jamui.
14. The Commandant, Bihar Special Arms Police-12, Supaul.
15. The Commandant, Bihar Special Arms Police-13, Darbhanga.
16. The Commandant, Bihar Special Arms Police-14, Patna.
17. The Commandant, Bihar Special Arms Police-15, Supaul.
18. The Commandant, Bihar Special Arms Police-17, Gaya.
19. The Commandant, Bihar Special Arms Police-18, Dumraon.



20. The Commandant, Bihar Special Arms Police-19, Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Thakur, Advocate
For the Respondent/s : Mr. Raghwendra Kumar, SC-22

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT**

Date : 27-03-2025

Heard Mr. Mukesh Kumar Thakur, learned Advocate for the petitioners and Mr. Raghwendra Kumar, learned Standing Counsel No. 22 for the State.

2. The petitioners, before this Court, are the constables working under the Bihar Military Police, have approached this Court for the following reliefs:-

I. For direction upon the respondent authorities to implement the judgment/order dated 26.04.2024 passed in LPA No.-458/2021 (arising out of CWJC No.-1744/2020) by the Division Bench of this Hon'ble Court in respect of the petitioners of the present writ application also as they are similarly situated to the appellants/petitioners of LPA No.-458/2021 and extend them all consequential benefits i.e. refund of recovered amounts, if any and restore the pay-fixation in the light of the facts that the petitioners were/are entitled to 1st ACP in the scale of Rs.4000-6000/- which was already allowed to them by the respondents.

II. To hold that petitioners are covered by the judgment/order dated 26.04.2024 passed by the Division



*Bench of this Hon'ble Court in LPA No.-458/2021 and therefore, as per **Clause-4.C (1) of the Bihar Litigation Policy, 2011** issued under resolution dated 31.03.2011 by the State Govt. they are also entitled to be given the same and similar benefits as has been given to the appellants/petitioners of LPA No.-458/2021 and any discrimination with the petitioners would amount to violation/breach of the Bihar Litigation Policy, 2011 by the respondent authorities. amount to III. For any other relief/reliefs to which the petitioners are entitled to in the facts and circumstances of this case.*

3. Learned Advocate for the petitioners has contended that the inaction of the respondents in not extending the identical benefits as has been accorded to other similarly circumstanced clearly transgresses Article 14 of the Constitution of India; moreover, the petitioners, among other similarly situated persons, have been included into the cadre of literate constables under Bihar Military Police by a conscious decision taken by the concerned authorities to Military Police Standing Order No.74/1999 dated 05.03.1999 and, as such, the action on their part in treating the petitioners to be the members of non-matriculate cadre constables of Bihar Military Police for the purpose of extending them benefit of financial progression under the ACP scheme is clearly untenable.



4. It is further contended that, nonetheless, the present petitioners, on the basis of instructions issued by the concerned authorities, had given consent for being granted promotions against the post of *Havildars* in Bihar Military Police, no financial benefits had ensured in their favour on account of such promotion and, as such, it was a promotion in terms of rank; furthermore, at the time of granting the said promotions, the concerned respondent authorities had not made a disclosure that upon grant of said promotions against the post of *Havildars*, the present petitioners would be subjected to reduction of their salaries and accordingly the benefits extended in their favour under the Assured Career Progression Scheme while treating them to be the members of literate cadre Bihar Military Police would be withdrawn.

5. The action on the part of the concerned respondent authorities in seeking to recall the benefits of 1st Financial Progression Scheme in the pay scale of Rs.4000-6000/- to the pay scale of Rs.3200-4900/- is highly arbitrary, unreasonable, apart from violative of Articles 14, 16 and 21 of the Constitution of India.

6. Referring to the facts enumerated in the writ petition, learned Advocate further contended that the identical issue to that of the petitioners has traveled to the



learned Division Bench of this Court 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. It was 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.

7. For proper appreciation of the matter, this Court deems it apt to encapsulate the relevant paragraphs of the judgment/order dated 26.04.2024 of the learned Division Bench passed in L.P.A. No. 458 of 2021.

“6. The appellants were appointed as Writer Constables during the period from 1986-1993. Pursuant to ACP Scheme, they have been extended 1st ACP benefit in the year 2002-2003 with reference to Assistant Sub Inspector



cadre, which is promotional cadre to the Writer Constables. Thereafter, policy decision of the department was introduced insofar as seeking option from the Writer Constables and Ordinary Constables to the extent whether Writer Constable intends to opt for Ordinary Constable or Ordinary Constable intends to opt Writer Constable subject to the fulfillment of qualification of Matriculation. The appellants have not exercised their option, resultantly, they would be treated as Ordinary Constables.

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).”

8. Reading of the aforementioned



paragraph-661 read with the fact that the appellants were appointed in the year 1986-1993 with Matriculation qualification and they deemed to be Writer Constable in the light of the aforementioned provisions. Therefore, it is not appropriate for the official respondents to withdraw the 1st ACP granted in the year 2002-2003 in the light of later policy decision in the year 2004 insofar as seeking option to Writer Constable or Ordinary Constable. In other words as on 2002-2003, the appellants have fulfilled relevant criteria for the purpose of claiming ACP benefit and it was already granted. Therefore, irrespective of exercising option by the appellants either to Writer or Ordinary Constable and they may be retained in the Ordinary Constable in not exercising option with reference to the year 2004 that would not be hurdle insofar as extending 1st ACP benefit in the year 2002-2003. These material information have not been taken note of by the learned Single Judge while deciding the appellants' writ petition.

9. In the light of the decision of the Hon'ble Supreme Court in the case of **Amresh Kumar Singh & Ors. vs. The State of Bihar & Ors.**, reported in **2023(2) PLJR (SC) 423**, 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. Therefore, the official respondents insisting that appellants have not passed certain prescribed examination for promotion would not be a hurdle. Further, we have noticed that from the year 1993 to 2003, the official respondents have not undertaken to conduct departmental examination so as to enable the appellants and similarly situated persons to participate in the process of departmental examination and get eligibility. Therefore, there is fault on the part of the official respondents in not conducting departmental examination timely. Acquisition of qualification like pass in departmental examination by the Appellants was beyond their control. This issue would not be hurdle for the purpose of extending 1st ACP to the appellants in the light of the cited decision.

10. In view of the above circumstances, the appellants have made out a case. Accordingly, the present L.P.A. stands allowed. The orders of the learned Single Judge dated 16.04.2021 passed in C.W.J.C. No.6910 of 2020 and analogous cases stands set aside and C.W.J.C. No.1744 of 2020 filed by the appellants are allowed.”

8. At this juncture, learned Advocate 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 aforesaid L.P.A. No. 458 of 2021, similar relief shall be granted to them.

9. 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. 2 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 L.P.A. No. 458 of 2021 preferably within a period of eight weeks from the date of receipt/production of a copy of this order, in accordance with law.

10. The writ petition stands allowed to the extent indicated hereinabove.

(Harish Kumar, J)

supratim/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.03.2025
Transmission Date	NA

