

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1333 of 2015

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1. Ram Das Yadav Son of Late Chhotu Yadav @ Chhato Yadav R/o village- Banu Bagicha Post - Bannu Bagicha, P.S. - Chanan, District- Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Accountant General, Bihar, Patna.
3. The Principal Secretary, Home Department, Government of Bihar, Patna.
4. The Secretary, Home Department (Special), Government of Bihar, Patna.
5. The Deputy Secretary, Secretary, Home Department (Special), Government of Bihar, Patna.
6. The Chairman, Salahkar Parishad, J.P. Senani Samman Yojana, Home Department (Special), Bihar, Patna.
7. The Secretary, Salahkar Parishad, J.P. Senani Samman, Yojana, Home Department (Special), Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Verma, Adv.

For the Respondent/s : Mr. Rajesh Kumar, GP-19

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 22-06-2015 Heard Mr. Umesh Kumar Verma learned counsel for the petitioner and Mr. Rajesh Kumar A.C. to G.P.19 for the State.

The petitioner is aggrieved by a communication dated 27.2.2013 issued by the Deputy Secretary-cum-Public Information Officer, Home(Special) Department whereby his application under the Right to Information Act has been rejected inter alia on grounds of being time barred. The petitioner prays for a direction to the authorities of the State Government in its Home (Special) Department to grant him the benefit arising from J.P. Senani Pension Samman Yojana, a copy of which is placed at Annexure-1

to the writ petition.

Facts of the case briefly stated is that the Government of Bihar in its Home (Special) Department issued a Pension Scheme for such of the persons who had participated in the movement initiated by late Lok Nayak Jai Prakash Narain in between 18.3.1974 to 21.3.1977 and had suffered injury/fatal injury/incarceration. In so far as the persons suffering incarceration upto 6 months is concerned, they have been provided with pension of Rs. 2,500/- per month while those suffering incarceration of more than six months, have been awarded with a monthly pension of Rs. 5000/- per month. In a similar manner agitators who have suffered death have been given pension of Rs. 5000/- while those suffering grievous injuries in police firing have been given pension of Rs. 2,500/- per month. A copy of the Scheme is placed at Annexure-1 to the writ petition and Annexure-C to the counter affidavit.

In so far as the present petitioner is concerned, he claims to have suffered incarceration for a period of one year and in support thereof he relies upon the information given by the Public Information Officer, Special Central Jail, Bhagalpur placed at Annexure-2 as well as an information provided by the Deputy Superintendent of Prison-cum-Public Information Officer, Special Central Jail, Bhagalpur dated 20.7.2014 placed at Annexure-5.

Although the petitioner claims to have suffered incarceration for one year but the documents on record though mentions his date of entry in prison but there is nothing on record to show the period of detention. The claim of the petitioner has been rejected under the Right to Information Act on grounds of being time barred.

I have heard learned counsel for the parties and I have perused the records.

Although a specific stand has been taken by the respondent in the counter affidavit that the claim of the petitioner for J.P. Samman Pension was time barred but there is nothing on record of the Scheme or the counter affidavit to show that there was any limitation prescribed under the Scheme to debar any such claim. Atleast the Scheme present at Annexure-1 to the writ and Annexure-C to the counter affidavit does not provide for any such limitation. On the contrary Clause 3 and Clause 4 of the Scheme specifically caters for late comers.

The fact that the petitioner has suffered detention with effect from 7.10.1974 i.e in between the period of the scheme which extends from 18.4.1974 to 21.4.1977 is supported by Annexure-2 and Annexure-5. Though the petitioner claims to have suffered such incarceration for one year but the period of detention is not satisfied from the documents nor counsel for the petitioner is in a

position to establish this period of detention. In my opinion, the petitioner has made out a claim for payment of J.P. Senani Samman Pension under the Scheme present at Annexure-1 of the writ and Annexure-C to the counter affidavit and in view of the Clause 3 and Clause 4 of the Scheme, his claim could not be rejected on grounds of limitation. In so far as the rate of pension is concerned, since the detention is supported by the documents present at Annexure-2 and Annexure-5 hence in my opinion, in absence of any document to support the period of incarceration exceeding six months, the petitioner is found entitled to a pension payable to persons suffering incarceration upto six months and which is at the rate of Rs.2,500/- per month.

In the circumstances discussed, the writ petition is allowed with the direction to the respondent Nos. 3 to 7 to issue appropriate orders for payment of J.P. Senani Samman Pension to the petitioner treating him under incarceration for six months in view of the document supporting his detention present at Annexures-2 and 5 and such order granting pension should be passed by the authority concerned within three months from the date of receipt/production of a copy of this order.

(Jyoti Saran, J)

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