

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.3321 of 2014**

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1. Most. Baijanti Devi W/O Late Awadhesh Mistry R/O Village Kaila, P.S- Sare,  
District- Nalanda.

.... .... Petitioner/s

Versus

1. The State Of Bihar
2. The Home Secretary, Department Of Home, Govt. Of Bihar, Patna.
3. The Director General Of Police, Department Of Home, Govt. Of Bihar, Patna.
4. The Director General of Police (Home Guard), Department Of Home, Govt. Of Bihar, Patna.
5. The D.I.G. (Home Guard), Patna.
6. The District Magistrate Nalanda, Bihar Sharif.
7. The Commandant, Bihar Home Guard Vahini, Bihar, Patna.
8. The Commandant, Bihar Home Guard Vahini, Nalanda.
9. The Circle Officer Bind, Nalanda.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Ram Das Singh

For the Respondent/s : Mr. SC5- Satyadeo Kumar

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**

**ORAL JUDGMENT**

**Date: 09-12-2015**

Petitioner is the widow of a so-called home guard, namely, Awadhesh Mistry. It is her claim that he died during his course of duty, therefore, she is entitled to ex gratia in terms of resolution no.1802 dated 17.2.2010. She filed an application for such a relief before the Commandant, Bihar Home Guard, Nalanda. But such a prayer has been rejected vide order dated 4.3.2013 contained in Annexure- 8. She wants quashing of the said order in the present writ application. According to the petitioner, her husband was on duty at the time of death. It is her case that her husband was posted in the



Circle Office of Bind in the district of Nalanda. He was deputed in terms of Annexure-2 by a command issued by the Officer Incharge, Bind Police Station which is dated 17.2.2012. He performed his duty up till 13.3.2012 but on 14.3.2012 she received information that her husband is unwell. She rushed to the place of posting of her husband, she brought him and got him admitted at PMCH on 21.3.2012 where he died during course of treatment on 22.3.2012. The death certificate is Annexure- 5.

The petitioner informed the superior authorities. It is her case that death of her husband will be treated to be during course of duty and, therefore, she is entitled to the benefit.

The respondent State authorities have denied the story about the husband of the petitioner being on duty at the time of his death. It is said that he was unwell. He went on leave, went for treatment and during the course of treatment he died, therefore, the said circular does not envisage and apply to such kind of cases.

From the narration of facts and the cause of death indicated in Annexure- 5, it is evident that the husband of the petitioner was suffering from diabetic problems and the reason for death indicated in the death certificate is diabetic nephropathy. Obviously, the reason of death as well as the place of death cannot be co-related with the duty or during the course of duty.

If that be so then Annexure- 8 has been rightly passed rejecting the claim of the petitioner because the facts of the case does not come within the ambit of the circular in question. It is not a death during course of duty.

Writ is dismissed.

**(Ajay Kumar Tripathi, J)**

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