

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13524 of 2008

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Nutan Devi , wife of Late Ram Bilas Singh, resident of village- Darbeshpur,
P.O. Badi, P.S. Katrisarai in the district of Nalanda

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Home Secretary, Govt, of Bihar, Patna
3. The Joint Secretary, Home (Police) Department, Govt. of Bihar,
Patna
4. The Director General-cum- Inspector General of Police, Govt. of
Bihar, Patna
5. The Superintendent of Police, Gaya

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Dinu Kumar
Mr. Rohit Mishra
Mr. Manoj Kumar

For the Respondent/s : Mr. AC to GA-8

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 07-09-2015 Heard Sri Dinu Kumar, learned counsel for the

petitioner and learned AC to GA-8.

It is unfortunate that a widow of Ex-army personnel,
whose husband died during duty on being engaged as member of
Special Auxiliary Police (hereinafter referred to as the “SAP”),
has approached this Court invoking its writ jurisdiction under
Article 226 of the Constitution of India, with a prayer to direct the
Respondents to pay *ex gratia* amount of Rs.10,00,000/- as per
terms and conditions , which was advertised for engaging Ex army
personnel as member of SAP. The husband of the petitioner, while
discharging his duty, was on a police jeep, which was on



patrolling duty in the night of 26.12.2007. The said vehicle was dashed by negligently and rashly driving by the driver of a truck. In the said accident, the husband of the petitioner received serious injuries and died during treatment in Primary Health Centre. Accordingly, on the fardbeyan of one Suresh Rajak , constable , an F.I.R. was lodged vide Barachatti P.S. Case no.218 of 2007 on 27.12.2007 for the offence under Section 279, 427, 304(A) of the Indian Penal Code. A copy of the F.I.R. has been brought on record as Annexure-3 to the writ petition.

Sri Dinu Kumar, learned counsel for the petitioner, referring to F.I.R. (Annexure-3 to the writ petition) submits that on perusal of the F.I.R. itself, it is evident that the husband of the petitioner died, while discharging his duty. He submits that subsequently death certificate was issued. He submits that the Superintendent of Police, Gaya vide Memo No.498 dated 10.02.2008 (Annexure-6 to the writ petition) on being represented by the petitioner for grant of *ex gratia* forwarded the said letter to the Inspector General of Police (Headquarters). The Superintendent of Police made categorical averments in Annexure-6 that the husband of the petitioner died, while he was on duty. Sri Dinu Kumar submits that despite the fact that the husband of the petitioner died on duty and in terms of selection of

husband of the petitioner as per Annexure-1, the State Government was required to pay *ex-gratia* of Rs. 10,00,000/- (ten lacs), same has not been paid and on flimsy ground, the claim of the petitioner is being refused.

In this case, a counter affidavit has been filed on behalf of Respondent no.5/ Superintendent of Police, Gaya. Learned AC to GA-8, referring to averment made in the counter affidavit, submits that as per circular issued by the Finance Department, Govt. of Bihar, such benefit can be claimed only if one is killed by terrorist during discharge of duty and/ or has been killed by Nuxalites. Learned State counsel submits that it is a admitted case that the husband of the petitioner died in a road accident and, as such, she is not entitled to get *ex gratia* amount of Rs.10,00,000/-

Besides hearing learned counsel for the parties, I have also perused the materials available on record. On perusal of Annexure-1 to the writ petition, it is evident that for appointment of retired Army personnel on contract basis, an advertisement was published. In paragraph-8 of the advertisement, in specific terms, it was made clear that in case of death on duty, Rs. 10 Lacs shall be paid as *ex gratia* similar to the force of Bihar Police. Once at the time of advertisement, for appointment on contract basis in clear term it was stated that in case of death on duty , *ex gratia*

amount of Rs.10 Lacs shall be paid similar to the force of Bihar Police, there is no reason to allow the Respondents to deviate from the advertisement i.e. Annexure-1 to the writ petition. Moreover, there is no dispute that the husband of the petitioner died while on duty as Jawan of SAP. The F.I.R. itself indicates that while on duty, he was on a police jeep, which was dashed by a truck and in the said accident, the husband of the petitioner died. It was clear-cut case of death of the husband of the petitioner, while on duty. Accordingly, as per advertisement for appointment i.e. Annexure-1, the Respondents shall not be allowed to deviate from the terms and conditions. The petitioner is entitled to get *ex gratia* amount of Rs.10 Lacs as per Annexure-1 to the writ petition.

The writ petition stands allowed.

The Respondents are directed to pay *ex gratia* amount of Rs.10 lacs to the petitioner within a period of three months from the date of receipt/production of a copy of this order, failing which the said amount shall be paid to the petitioner with interest @ 12 % per annum, which shall be paid from the date of death of husband of the petitioner.

(Rakesh Kumar, J)

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