

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13851 of 2007

Mostt. Deoki Devi, wife of Late Brahmadeo Singh, resident of village- Hardayal
Nagar, Banki, Police Station-Gogri, District- Khagaria

.... Petitioner

Versus

1. The State of Bihar
 2. Director General of Police, Bihar, Patna
 3. Inspector General, Bihar Military Police, Bihar, Patna
 4. Deputy Inspector General of Police, B.M.P. (North Division), Muzaffarpur
 5. The Commandant, B.M.P.-7, Katihar
- Respondents

Appearance :

For the Petitioner : Mr. Hemendra Pd.Singh, Adv.
Mr. Jitendra Kumar, Adv.

For the Respondents: Mr. AC to SC-1

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 16-02-2015

.....

Heard Sri Hemendra Prasad Singh, learned counsel
for the petitioner and learned AC to SC-1.

The petitioner, invoking writ jurisdiction of this
Court under Article-226 of the Constitution of India, has
prayed for quashing a letter contained in Memo No.172 dated
25.01.2007 issued under the signature of Respondent no.5/
Commandant, B.M.P.7, Katihar, whereby the petitioner was
intimated regarding punishment order against husband of the
petitioner, while he was in service.

Short fact of the case is that husband of the petitioner
was made accused in criminal case registered for the offence



under Section 25(1)(a) of the Arms Act, in which he was initially found guilty and was convicted and sentenced for one year. Against the order of conviction, the husband of the petitioner preferred an appeal and finally the appellate court by Judgment in Cr. Appeal no.9 of 1991 dated 01.06.1992 acquitted the husband of the petitioner. Subsequently, the husband of the petitioner was reinstated and finally he superannuated with effect from 31st December, 1999. From writ petition, it is evident that besides criminal prosecution the husband of the petitioner was also proceeded departmentally and in the departmental proceeding, punishment order of 'censure' was recorded. Besides punishment of censure, it was indicated that the husband of the petitioner shall not be entitled to anything save and except subsistence allowance, which was paid during his suspension. It further appears that the husband of the petitioner was also taken into custody. In the writ petition, it has been pleaded that after death of husband of the petitioner, representations were filed for claiming salary during suspension period and finally vide Annexure-1 to the writ petition, the prayer of the petitioner has been rejected and the same has been communicated vide letter dated 25th January, 2007 issued

under the signature of the Commandant, B.M.P.-7, Katihar.

In this case, a counter affidavit has been filed on behalf of Respondent no.5 and it has been reiterated that in separate departmental proceeding punishment order was passed, which was passed on 24.03.1992. Of course, in the present writ petition, a prayer has been made for quashing of communication i.e. Annexure-1 to the writ petition, no specific prayer has been made for quashing of the original punishment order, which was passed long back in the year 1992. From the record, it is evident that the husband of the petitioner retired in the year 1999 and finally he died in the year 2005 and during whole life time, from the record it appears, the husband of the petitioner had not taken any step for assailing the order of punishment.

In view of facts and circumstances, particularly the fact that the order of punishment i.e. Annexure-A was passed in the year 1992, no positive order can be passed in favour of the petitioner.

The writ petition stands dismissed.

NKS/-

U			
---	--	--	--

(Rakesh Kumar, J)