

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4415 of 2015

=====

1. Mindra Devi. Widow of Late Awadhesh Prasad. Resident of village - Rupaspur,
P.O.- Bansdih, P.S.- Tharthari, District - Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Special Secretary, Home (Special) Department, Bihar, Patna.
3. The Under Secretary-cum-Nodal Padhadhikari, Home Department, Bihar, Patna.
4. The Director General of Police, Bihar, Patna.
5. The Inspector General of Police, Bihar, Patna.
6. The Principal Secretary, Urban Development and Housing Department, Bihar, Patna.
7. The Joint Secretary, Urban Development and Housing Department, Bihar, Patna.
8. The Under Secretary Govt. of Bihar, Urban Development and Housing Department, Bihar, Patna.
9. The Deputy Secretary, Urban Development and Housing Department, Bihar, Patna.
10. The Principal Secretary, Finance Department, Bihar, Patna.
11. The District Magistrate, Nalanda at Biharsharif.
12. The Election Officer-cum-District Officer, Nalanda.
13. The Superintendent of Police, Nalanda.
14. The Commandant, Civil Defence Corps (GRIHA RAKSHA WAHINI), Nalanda.
15. The Station head officer, Bihar Police Station, District - Nalanda.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr Uma Shankar Prasad, Sr. Advocate
Mr. Dineshwar Prasad Singh
For the Respondent/s : Mr. GP4- Uma Shankar
Mr Karandeep Kumar, AC to GP 4

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 05-04-2016

Petitioner is the widow of a Home Guard late Awadhesh Prasad. It is her case that her husband was deployed for an election duty of Nagar Parishad etc. and while he was on election duty on 17.5.2012 at about 5 am, he had a heart attack. He was rushed to

Biharsharif Sadar Hospital where Doctor declared him brought dead.

An application has been filed thereafter by the petitioner before the authorities for grant of ex gratia payment in terms of the circular and policy notified by the State of Bihar giving financial protection to employees who lost their life or limb during the process of election within the parameters indicated therein.

Recommendation was there in favour of the petitioner. However, the matter kept shuffling between one department and the other as to who is the authority who will take a call or decision and which is the department, which will share the burden or take a decision on the entitlement of such claim.

After many exchange of pleadings and when the Court took a serious view, the matter finally travelled to the Home (Special) Department and they have passed an order dated 23.2.2016 rejecting the claim of the petitioner. This rejection order is now subject matter of challenge in IA No.2198 of 2016. The said IA is allowed.

Learned senior counsel for the petitioner submits that because the husband of the petitioner died during the period of election and was deployed for election duty, therefore, he shall be covered by the circular issued by the State Government for grant of ex gratia to the tune of Rupees Ten lakh. It is the stress of the deployment and assignment for election duty which could have

triggered the heart attack and led to the death of the husband of the petitioner.

He further submits that the circular in question also talks in terms of any other reason in relation to the event taking place.

The Court has gone through the impugned order now subject matter of challenge in the IA. The impugned order has talked about the background under which the circular in question came to be issued and it has considered the circumstances under which the husband of the petitioner died. It is not a case that he died due to any kind of violence or any event related to the election or during the conduct of election which could have triggered the heart attack or death or injury upon the husband of the petitioner. The husband of the petitioner while resting at night suffered a heart attack at 5 A.M., he was rushed to the hospital where doctor opined that he was brought dead.

There is no material to show that at the time when the heart attack took place there was any violence or threat of violence or it happened during the course of election which caused stress upon the petitioner's husband which could have triggered the heart attack.

The object and purpose of issuance of such circular is to cover such employees who may suffer on account of violence etc. while on duty and during the course of election. It is not that every

death will bring the same within the ambit of the circular of grant of ex gratia compensation.

The reason for rejection of the claim of the petitioner is valid and correct. There is no reason for interference with the said decision keeping in mind the circumstances under which the death of the husband of the petitioner took place. It cannot in any manner be co-related with the assignment of duty of election or during the course of election.

The Court does take notice of the fact that petitioner has been duly compensated with regard to grant of other entitlement which are payable to an ex- employee, therefore, it is not a case of the petitioner having been left in the lurch.

Writ application has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

sk

U			
---	--	--	--