

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.24520 of 2013

Nand Dulari Kumari @ Mosmat Nand Dulari Devi W/O Late Kishori Sharma
Resident Of Village - Pariyaridih, P.S. Kinjar, P.O. Pariyari Bazar, District - Arwal

.... Petitioner/s

Versus

1. The State Of Bihar through Cabinet Secretary, Government of Bihar
2. The Commissioner, Gaya Pramandal at Gaya
3. The Collector, Gaya, District at Gaya

.... Respondent/s

Appearance:

For the Petitioner/s : Mr. DR. ANSHUMAN
Mr. Sanjay Kumar
Mr. Devesh Shankaran

For the State Mr. Chittaranjan Sinha, PAAG-2
Mr. Sudish Kumar Ac to PAAG 2

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 22-09-2016

Heard Mr. Anshuman Singh in support of the writ application and Mr.
Chittranjan Sinha, PAAG-2 for the State.

Parties have exchanged pleadings.

The petitioner is the widow of Late Kishori Sharma. It is alleged that while the husband was traveling he was killed in a Naxal attack by members of the Peoples' War Group (PWG) in 2002 for which a criminal case was registered. In the light of the policy decision of the State Government (Annexure-F to the counter affidavit of respondent no.4), a claim was raised by her for payment of ex gratia amount as well as providing employment in the State service in appropriate category. Needless to observe here the State Government upon such incident had granted ex gratia amount to the petitioner in the sum of Rs. 10,000/-. The District Magistrate upon consideration of the representation of the petitioner and after receiving report from the police



authority, rejected her claim in the year 2007 vide Annexure-D to the counter affidavit of respondent no.4 on the ground that the deceased husband of the petitioner killed in the alleged attack by the naxalites was himself facing a criminal prosecution in Kinjar P.S. Case No. 65 of 2002 registered under sections 448, 404, 337 and 387 IPC read with section 17 of CLA Act. The said order passed in 2007 has now been called in question by the petitioner in the present writ application by filing a separate interlocutory application. However, in the writ application, there is no averment that while the husband of the petitioner was killed, he was an accused of a criminal case and that the claim/representation of the petitioner for enhanced ex gratia amount as well as providing employment in the State was turned down by the District Magistrate in 2007.

The counsel for the petitioner has drawn attention of the Court to the relevant policy decision of the State Government enclosed as Annexure-F to the counter affidavit of respondent no.4. In paragraph 2 as well as the notes appended to Clause 5(1) Kha, it has categorically been provided that any one who lost his life in the terrorist attack or in an act of violence who carries criminal antecedents, would not, however, be entitled to payment of such enhanced ex gratia amount and the employment in appropriate category in the State service.

The relief prayed in this writ application merits to be declined at least on 02 grounds. Firstly, the representation of the petitioner filed for such relief was turned down by the District Magistrate who is appropriate/competent authority as per the policy decision (Annexure-F) in 2007. The writ application was filed in 2013. There is unexplained delay of nearly six years in challenging the said order. The claim is barred by the principles of delay and laches. Secondly, if the petitioner wants enforcement of the policy decision of the State Government, then he/she is required to demonstrate that the case is covered on all

fours by the policy decision. I have already noticed that such grant of enhanced ex gratia amount and employment in service is conditional. Indisputably, the husband of the petitioner was having a criminal antecedent as he was facing a criminal prosecution while he was done to death in the said action. The case of the petitioner is not fully covered by the policy decision of the State Government. In such circumstances, the Court is not inclined to invoke its extraordinary and discretionary writ jurisdiction and grant relief.

The writ application is dismissed.

(Kishore Kumar Mandal, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	N/A
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