

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5730 of 2014

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1. Wakil Mistry, Son of Late Sunder Mistry.
2. Fauzdari Mahto, Son of Late Narsingh Mahto.
3. Parmeshwar Mahto, Son of Late Kali Charan Mahto @ Kali Charan Mandal,
all Resident of Village- Kiran Pur, P.S.- Mednichak, (Suryagarha), District-
Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Home Department, Government of Bihar, Patna
3. The Secretary, Home (Special) Department, Government of Bihar, Patna
4. The Deputy Secretary, Home (Special) Department, Government of Bihar, Patna
5. The Divisional Commissioner, Munger Division, Munger.
6. The District Magistrate, Lakhisarai
7. The Senior Superintendent of Police, Lakhisarai
8. The Sub-Divisional Officer, Lakhisarai
9. The Superintendent, Mandal Jail, Munger

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. AMBIKA BHAGAT

For the Respondent/s : Mr. AAG10-PUSHKAR NARAIN SHAHI

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 05-10-2016

Heard both sides.

The State Government implemented a scheme called *J.P. Senani Samman Scheme* effective from 01.06.2009, vide Resolution dated 05.06.2009 (Annexure-3). The petitioners raise claim for grant of full pension, under the scheme before the Advisory Council. There is no dispute that upon consideration of their claim, the respondents have sanctioned J.P. Senani Samman Pension @ Rs. 2500/- per month to the petitioners. The petitioners were dissatisfied therewith. In this factual matrix, a writ petition being C.W.J.C. No. 1746 of



2013 was filed by them which was considered and disposed of on 29.01.2013 (Annexure-4) whereby, the District Magistrate, Lakhisarai was directed to verify the factual claim of the petitioners and report to the concerned authority in respect of their actual period of custody behind the bars. On the basis thereof, the matter was directed to be reconsidered. The District Magistrate, Lakhisarai upon verification submitted the reports. The respondents by an order dated 23.09.2013 (Annexure-1) did not find sufficient evidence to indicate that the petitioner nos. 1 and 3 remained in jail custody under relevant provisions of the Defence India Rules (DIR) for more than six months. Accordingly, their prayer for enhancement of the pension amount under the scheme was turned down. The said order has been challenged by the petitioners.

It has been submitted that from the reports submitted by the District Magistrate Lakhisaria (Annexure-2) and the Superintendent of Special Central Jail, Bhagalpur, it would appear that the petitioner nos. 1 and 2 were initially taken into custody and lodged in District Jail Munger and later shifted to the Central Jail Bhagalpur where they entered into the jail on 25.12.1975 and were let off from the jail custody on 14.05.1976.

In the submission of the petitioners, this aspect of the matter has been ignored by the respondents, although, the report(s) of the

District Magistrate and the Superintendent of Special Central Jail, Bhagalpur indicate the aforesaid fact.

This basically pertains to appreciation of the evidence filed in support of the claim. The Court in writ jurisdiction would not go into this aspect of the matter. If there is erroneous consideration of the claim of the petitioners, the petitioners can always represent before the Authority under the Scheme for reconsideration of their claim. Indisputably, no case of reconsideration, if any, is made out on behalf of the petitioner no. 3. The Court in this view of the matter does not find any merit in the claim of the petitioner no. 3.

So far as the petitioner nos. 1 and 2 are concerned, they may represent afresh before the appropriate Authority/Forum for reconsideration of their claim under the said scheme/yojna. If they do so, the respondents will examine/re-examine the claim of the petitioners in accordance with law.

rohit/-

(Kishore Kumar Mandal, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	07.10.2016
Transmission Date	N.A.