

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 4009 of 2014

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Sunaina Devi Wife of Late Kedar Dubey Resident of Village- Sakri
Chandpura, P.S.- Piyon, District- Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar Through The Chief Secretary Govt. of Bihar Patna
2. The Principal Secretary Home Special Deptt. Govt. of Bihar Patna
3. The Under Secretary Home Spl. Department Govt. of Bihar Patna
4. The Collector, Muzaffarpur
5. The Block Development Officer, Murraw Block, District- Muzaffarpur
6. Jailor Mandal Kara Samastipur
7. The Union of India through the Secretary Ministry of Home Affairs, New Delhi
8. The Director (FF) and C.P.I.O., Ministry of Home Affairs F.F.R. Division, New Delhi

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ibrahim Kabir
Mr. Kumar Rajiv

For the Respondent/s : AC to Addl. Advocate General -9
Mr. R.K.Sharma, CGC

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3 24-02-2016 Heard Mr. Ibrahim Kabir, learned counsel who was assisted by Sri Kumar Rajiv, learned counsel for the petitioner, learned A.C. to Addl. Advocate General – 9 as well as Sri R.K.Sharma, learned Central Govt. Counsel.

The petitioner has approached this Court invoking its writ jurisdiction under Article 226 of the Constitution of India with a prayer to direct the respondents to grant freedom fighter pension to her late husband Kedar Dubey. It has been claimed that husband of the petitioner had applied for pension under the

Freedom Fighter Pension Scheme, however; during his lifetime, no decision was taken and after his death, the petitioner has approached this Court for grant of pension in favour of her late husband.

A plea has been taken that husband of the petitioner had participated in freedom movement and in 1930, he remained in jail in Samastipur, however; by way of filing counter affidavit, respondent no. 4 & 5 have asserted that it was verified from the Samastipur jail regarding the availability of the record, whereas it was informed that no such record was available. It has further been argued by learned counsel for the State that though freedom fighter pension scheme was firstly introduced in the year 1970 itself, but husband of the petitioner never approached the authority concerned for the same. Only in the year 2005, after lapse of several years, he applied primarily, which was verified and since there was no record available in the Samastipur jail, no decision could be taken. In the meanwhile, the husband of the petitioner died on 25-04-2012.

It has been argued that since the pension was not at all entertained in favour of the husband of the petitioner, there is no reason to entertain the present petition under the said scheme.

Besides hearing learned counsel for the parties, I have

also perused the materials available on record. This fact has not been disputed that for the first time in 2005, the husband of the petitioner applied for pension under the Freedom Fighter Pension Scheme. The said scheme was firstly introduced in 1970 and it was also modified in subsequent years. The stand taken in the counter affidavit of respondent/State is sufficient to persuade the Court that it was not a case of grant of such pension. Moreover, the person, who had claimed pension under the Freedom Fighter Pension Scheme, had already died in the year 2012 and the present writ petition was filed in the year 2014.

I do not find any ground to entertain the present writ petition.

The writ petition stands dismissed.

(Rakesh Kumar, J.)

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