

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8018 of 2013

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Premalata Devi W/o Late Prabhu Nath Singh (Non Medical Assistant) District Leprosy Eradication Office, Motihari, East Champaran, Bihar, Pin- 845401 At Present Residing Mohallah- Rajabazar, P.S.- Motihari Town, District- East Champaran (Motihari).

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Health Department (Bihar)
3. District Election Commissioner cum District Magistrate, East Champaran (Motihari)
4. The Civil Surgeon, East Champaran (Motihari)
5. Managing Director, Eastern Railway, Hajipur (Bihar)
6. The Chief Election Commissioner, New Delhi
7. The Chairman, National Human Right Commission, New Delhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Shailendra Kr. Jha. And A. Mohan Sinha
For the State : Mr. Mritunjay Kumar AC to SC-23
For the Railway : Mr. Anil Kumar Sinha, SC

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 04-07-2016

In the present case the petitioner is challenging the order of Election Commission dated 30th August 2012 by which the claim of the petitioner for compensation has been rejected.

Earlier this Court in earlier writ application vide CWJC No. 7445 of 2001 and LPA No. 241 of 2002 gave direction to the respondents to make payment of ex-gratia compensation amount to the polling personnel who sustained jury

or died during the election duty.

Prabhunath Singh was appointed as Reserved Presiding Officer for 15–Kesariya assembly Constituency in General Assembly Election held in the year 2010, was directed to collect the polling materials from B.P.U.S. High School, Kuawan Chakiya on 26.10.2010 at 10 A.M. after the poll, the material was to return to the Centre.

As per the direction, all the persons involved in the election were required to be present for duty on 26.10.2010 at 10 A.M. in the school. The husband of the petitioner reported the venue at schedule time and in the late evening on 27.10.2010 in between 7 P.M. to 8 P.M., had gone to take dinner and while crossing the railway line, he came under 523 Up train. Prabhu Nath Singh was admitted in the Sadar Hospital, Motihari, referred to AIIMS, New Delhi on 29.12.2010, later on, on 24.03.2011 he was discharged from there on account of poor improvement. On account of accident, the husband of the petitioner on account of fracture and disturbance of nervous system, became totally disabled. Late Prabhu Nath Singh approached the Election Officer-cum-District Magistrate, East

Champan for compensation including the cost incurred in medical treatment, so much so, Prabhu Nath Singh approached the Principal Secretary, Health Department and other concerned officers including the National Human Right Commission, New Delhi, but they did not give any solace to him.

Being dependant on the husband, the petitioner filed an application for compensation annexing the relevant material to show that her husband had died on account of the accident taken place during the election period.

The case of the petitioner was considered by Election Commission, thereby rejected the claim of the petitioner where it has been recorded the date of receipt of election material was fixed on 26/10/2010 was extended on 27/10/2010 and materials of election could not be handed over, as he was found missing and later on, it could be known to have died on 26/10/2010. In the school, there was every arrangement for rest and food but he met with accident on his own mistake and the accident has no casual connection with the election duty and as such cannot be a basis for claiming the compensation.

The petitioner has challenged this order by filing

I.A. No. 5284 of 2016. It is a disputed question of fact whether the accident has any casual connection with the election duty. This issue cannot be decided in the present proceeding. The petitioner if so advised, may approach the properly constituted civil court and raise the issue with regard to entitlement of compensation mentioned in the present petition.

With the above observation/direction, this petition is disposed of.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	12.07.2016
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