

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1643 of 2013
IN
Civil Writ Jurisdiction Case No. 7542 of 2013**

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1. The State of Bihar through Principal Secretary, Department of Home, Bihar, Patna, Pin- 800015
2. Principal Secretary to the Government of Bihar, Department of Home, Bihar Pin- 800015

.... Appellants

Versus

Smt. Urmila Devi Wife Of Sri Hari Prasad Tiwari Resident Of Village- Gopi-Patti, P.O.- Patore, P.S.- Bahadurpur, District- Darbhanga

.... Respondent

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Appearance :

For the Appellants : Mr. Madhaw Prasad Yadav, GP-23
Mr. Sanjay Kumar, AC to GP-23
For the Respondent : Mr. Nand Kishore Singh, Advocate
Mrs. Sweta Sharma, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 19-06-2017

The sole submission on behalf of the counsel representing the State in the present Letters Patent Appeal is that since the scheme of granting pension under the “J.P. Senani Samman Nagarik Scheme”, which has been notified with effect from 5th June, 2009, is prospective in nature and, therefore, the direction of the learned single Judge dated 16.07.2013, which is under challenge in the present appeal, giving direction for grant of such benefit to the wife of the sufferer, namely, late Hari Prasad Tiwari, needs to be interfered with.



From a bare reading of Annexure-2, the notification, as well as certain clarification, which has been issued by the State of Bihar itself, compels this Court to reject such a submission at the very threshold.

The object of grant of such benefit is for the cause of action, which arose between 18th March, 1974 and 21st March, 1977, the period when said movement lasted.

The admitted position is that the husband of the private respondent was arrested and incarcerated under Section 33(3) of the Defence of India Rules and was in custody at Darbhanga Jail from 19.12.1975 till 23.07.1976. Merely because the husband of the private respondent went missing in the year 2007 and has not been heard of, it does not make him ineligible nor does the family become debarred from claiming such honour and benefit in terms of the scheme dated 5th June, 2009.

The other submission of the counsel for the State that there is no scheme for payment of family pension to the wife of the sufferer is a contrived kind of submission to make because the private respondent is not claiming benefit of family pension, but the benefit under the scheme which envisages grant between Rs.2,500/- to Rs.5,000/-, depending upon the nature of suffering.

The learned single Judge, therefore, has committed no



error in giving directions upon the State authorities to consider and grant such a benefit to the private respondent, who happens to be the wife of the sufferer.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Pawan/-

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