

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6128 of 2016

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Smt. Lalita Mishra, Wife of Late Biswanath Mishra, Resident of Village -
Kakraul, P.S.- Rahika, District - Madhubani

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary Deptt. of Home, Bihar Govt. at Patna
2. The Principal Secretary, Deptt. of Home, Govt. of Bihar at Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar
For the Respondent/s : Mr. Sudhanshu Shekhar, AC to SC 24

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 01-11-2018

Heard Mr. Rajesh Ranjan, learned counsel for the petitioner and Mr. Sudhanshu Shekhar, learned AC to SC 24 for the respondent-State.

Though, the present writ application was registered on 02.04.2016, but till date no counter affidavit has been filed, hence, in view of the nature of order this Court intends to pass, this Court is not inclined to adjourn the matter any further.

The present writ application has been filed for a direction to the respondent-authorities to grant the Samman Pension (hereinafter referred to as 'Pension') under the J.P. Samman Scheme (hereinafter referred to as 'Scheme') in terms of resolutions dated 05.06.2009 and 15.07.2015, as contained in



Annexure-3 and 3/1 respectively, issued under the signature of Home (Special) Department, Government of Bihar.

It is submitted by learned counsel for the petitioner that the husband of the petitioner, late Biswanath Mishra was detained in jail custody from 29.09.1974 to 10.12.1974 and again from 27.03.1976 to 15.01.1977 under the provisions of Maintenance of Internal Security Act (hereinafter referred to as 'MISA') for having actively participated in the J.P. movement. The Home (Special) Department, Government of Bihar vide resolution dated 05.06.2009 as well as 15.07.2015, came out with a scheme, which stipulates that the persons who were under custody from one month to six months or more than six months during J.P. movement, they will be provided monthly pension of Rs. 2,500/- or Rs. 5,000/- respectively and if such person died in jail or during the police firing during such movement, then the husband/wife of the deceased will get monthly pension of Rs. 5,000/- while the injured will get Rs. 2,500/- under the Scheme. It is further submitted that the petitioner's husband remained in custody for more than six months during the J.P. Movement from 29.09.1974 to 10.12.1974 and from 27.03.1976 to 15.01.1977, but the husband of the petitioner died prior to coming into force of the said scheme in the year 2009. The petitioner submitted an application for grant



of the pension under the Scheme in appropriate format after coming into force of the resolution dated 05.07.2015 by the Home (Special) Department, Government of Bihar, but till date, the application of the petitioner has not been processed in spite of the representation being submitted on 24.02.2016 before Respondent No.2, the Principal Secretary, Department of Home, Government of Bihar. Hence, the present writ application.

Learned AC to SC 24 submits that at present, he is not having any instruction, but if decision has not been taken on the application of the petitioner till date, the same will be taken within a specified time frame.

Considering the rival submissions of the parties, this Court is of the view that in order to protect the democracy of the country and rights of the citizen, a movement was led in the State of Bihar from 18.03.1974 to 21.03.1977 under the leadership of Jai Prakash Narayan, which includes the period during which the emergency was imposed in the country in the year 1975. Subsequently, the Department of Home (Special) Government of Bihar came out with resolution dated 05.06.2009, which stipulates that the persons who remained in custody either under MISA or under D.I.R. from one month to six months or for more than six months during 18th of March, 1974 to 21st March, 1977, they will



be provided monthly pension, under J.P. Samman Scheme, of Rs. 2,500/- or Rs. 5,000/-. If such person during the said period died in the jail or due to police firing, their wives/husbands will be provided Pension of Rs. 5,000/- per month and the persons who received injuries during said period, will be provided Pension of Rs. 2,500/- per month. This scheme further stipulates that such persons who get the Pension shall also be entitled to free travel in the buses of Bihar State Road Transport Corporation and shall also get free medical facilities in the government hospitals and in the hospitals approved under CGHS. In 2009 Scheme, there was no provision for providing pension to the spouses of the pensioner. However, resolution dated 5th of June, 2009, was partially modified by another resolution dated 15.07.2015, issued by the Department of Home (Special), Government of Bihar, wherein it is stipulated that on the death of pensioner, the pension or the benefits of the Scheme will be provided to the their respective spouses. In the present case, it is admitted fact that the petitioner's husband died prior to the scheme coming into force. In view of the mandate of the partial notification dated 5th June, 2009 and its partial modification vide subsequent notification dated 15th July, 2015, it is expected from the respondent authorities to take a final decision on the pending application of the petitioner preferably



within a period of three months from the date of production of a copy of this order.

Accordingly, with the above observations/directions the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	26.11.2018
Transmission Date	

