

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19074 of 2010

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SAROJ THAKUR WIDOW OF LATE ADITYA KUMAR THAKUR R/O
FLAT NO. 852, NAV SANSAD VIHAR, PLOT NO.4, SECTOR-92,
DWARIKA, NEW DELHI-110075, PRESENTLY POSTED AS JUNIOR
ACCOUNTS CLERK IN THE OFFICE OF RESIDENT COMMISSIONER,
BIHAR BHAWAN, 5, KAUTILYA MARG, NEW DELHI - 110021

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. THE PRINCIPAL SECRETARY CABINET SECRETARIAT
DEPARTMENT, BIHAR, PATNA
3. THE PRINCIPAL SECRETARY, ROAD CONSTRUCTION DEPARTMENT,
GOVERNMENT OF BIHAR, PATNA
4. THE SECRETARY, HOME DEPARTMENT GOVERNMENT OF BIHAR,
PATNA
5. THAT JOINT SECRETARY ROAD CONSTRUCTION DEPARTMENT,
GOVERNMENT OF BIHAR, PATNA

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar 1
For the Respondent/s : Dr Mankeshwar Tiwari, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 26-06-2018 The present writ petition has been filed for directing the Respondents to sympathetically consider appointment of the petitioner on Class-II post on compassionate ground in view of the fact that the husband of the petitioner died in harness on 31.12.2004, having brutally been killed while discharging his official duty. It has further been prayed that though the petitioner has been granted ex gratia payment amount of Rs. 2.50 lakhs, further remaining ex gratia amount of Rs. 7.50 is still outstanding for payment.

The petitioner, in the writ petition, has stated that



though the petitioner has been appointed on Class III post as Junior Accounts Clerk vide Memo No. 815 dated 5.7.2005, but the State Government had assured appointment on Class-II post. It is further stated in the writ petition that though earlier, the Finance Department vide Resolution dated 05.05.1997 had made provision for payment of ex gratia amount of Rs. 2.50 lakhs, but the same has been enhanced to Rs. 10 lakhs vide Finance Department Resolution No. 7976 dated 23.11.2001, hence, the petitioner is liable to be paid a further sum of Rs. 7.50 lakhs.

I find that the petitioner has failed to produce any notification of the State Government or Rules / Circular regarding appointment on compassionate ground to show that it is mandatory for the Government to appoint the petitioner on Class-II post, hence, I find that her appointment on Class-III post does not suffer from any infirmity and to that extent, the present writ petition is dismissed.

The next question which arises for consideration is with regard to grant of additional amount of Rs. 7.50 lakhs as ex gratia payment on account of the husband of the petitioner having been killed brutally during the course of discharge of his official duties on 31.12.2004. According to the petitioner, the



Finance Department has come out with a Resolution dated 23.11.2001 by which the ex gratia amount has been increased from 2.50 lakhs to 10 lakhs. If that is the case then the petitioner is entitled for payment of additional amount of Rs. 7.50 lakhs.

In order to adjudicate as to whether the petitioner is entitled for the said additional amount of Rs. 7.50 lakhs, I deem it fit and proper to direct the Respondent No. 3 i.e. the Principal Secretary, Road Construction Department, Government of Bihar, Patna to consider the entire facts and circumstances of the present case and pass a reasoned and speaking order on the issue of the entitlement of the petitioner to the extra sum of Rs. 7.50 lakhs by way of ex gratia payment. The said order should be passed within a period of four weeks from today failing which the Respondent No. 3 shall be visited with penal consequences.

The writ petition is disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

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