

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1010 of 2017

IN

Civil Writ Jurisdiction Case No. 24520 of 2013

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Nand Dulari Kumari @ Mosmat Nand Dulari Devi W/o Late Kishori Sharma
Resident of Village - Pariyaridih, P.S. - Kinjar, P.O. - Pariyari Bazar, District -
Arwal.

.... Appellant/s

Versus

1. The State of Bihar through Cabinet Secretary, Government of Bihar.
2. The Commissioner, Gaya Pramandal at Gaya.
3. The Collector, Gaya at Gaya.
4. The Collector, Arwal District at Arwal.

.... Respondent/s

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Appearance :

For the Appellant/s : Dr. Anshuman, Adv.

Mr. Sanjay Kumar, Adv.

For the Respondent/s : Mr. Ranjan Kumar Singh, A.C. to PAAG-2

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 03-07-2018

Writ application was filed by the present appellant seeking benefit of compensation as well as grant of compassionate appointment in terms of the policy decision of the State of Bihar issued by the Rehabilitation Department on 20th February, 1991. The said policy was subsequently revised and published in the official gazette on 29th May, 2013.



There is no dispute on the fact that husband of the appellant late Kishori Sharma was killed by so called People's War Group in the year 2002 for which criminal case was instituted. The husband was not only victim. There were also some other family members who were killed. One limb of the family managed to get benefit of compassionate appointment as well as ex gratia payment to the tune of rupees five lacs. So far as the present appellant is concerned, the primary reason for non-consideration or rejection of the claim of the present appellant is that her husband was said to be a member of outlawed organization known as Ranvir Sena.

It is the stand of the State counsel that such people are excluded from the benefit of the policy and that was the only reason why the present appellant was not extended similar benefit.

Earlier also a plea was taken that the husband of the appellant was a naxalite himself facing a criminal prosecution in Kinjar P.S. Case No. 65 of 2002 and that is enough indication or proof of the stand of the State for non-grant of benefit.

Since false implication in such cases or indication of name of the innocent persons of the villages are not known, therefore, the Court while hearing the appeal on earlier occasion directed the State counsel vide order dated 16.05.2018 to bring all the material and evidence which would support and justify exclusion of the benefit so



far as the present appellant is concerned.

Today the so called original file in relation to the decision relating to the incidence has been produced. Attention of the Court was drawn to pages 38 and 39 of the said file from where counsel for the State tries to convince the Court that material had come during the course of investigation and, therefore, a case in their favour is made out.

Unfortunately we are not impressed by the notings at pages 38 and 39 of the said file because it is nothing but repetition of the insinuation which cannot be raised to the level of allegation much less bring the husband of the appellant in the category of an accused or a convict. No doubt one Kinjar P.S. Case No. 65 of 2002 was registered but there does not seem to be any independent evidence either of the oral or documentary kind which has been talked in the narration about the husband of the appellant. A reading of the passages only indicates that these are hearsay where not even source of hearsay identified, is noted. Merely using the expression 'Gupt Source' does not lend credibility to the 'Gupt Source' or the so called 'Gupt Source' can take the place of evidence.

There is no reason for rejection of the claim of the present appellant because the incidence is not the matter of argument and dispute. Husband of the appellant was not the only victim. Other



persons have derived the benefit. Hearsay cannot be used as the reason for rejection of the claim of the appellant. The Court was looking forward to something more tangible by way of evidence from the State authorities. Merely putting a label on a dead man cannot be absolved of the duty and obligation towards the citizens of the State.

Since the incidence related to the year 2002, this Court after almost a decade and half is not enthused to give a direction to grant benefit of compassionate appointment now even though the blame lies at the door of the State authorities for such delay but so far as the grant of ex gratia payment is concerned, the present appellant's case cannot be discriminated vis a vis the case of Ranju Devi who is wife of late Mantu Sharma.

A direction, therefore, is issued upon the respondent State authorities that they will authorize and sanction ex gratia payment in terms of the policy at par with Ranju Devi wife of late Mantu Sharma within a period of four weeks from the date of production of a copy of this order.

Since the appellant has suffered long enough, no further delay with regard to grant of such compensation is going to be allowed. If the State authorities decide to sit over the direction, the appellant will also be eligible to earn simple interest at the rate of 5% per annum from the date of what was paid to Ranju Devi till actual



payment.

Appeal stands allowed in terms of the above.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Devendra/Arjun

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.07.2018
Transmission Date	NA

