

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 17467 of 2016

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Batasi Devi, Wife of Late Puran Yadav, Resident of Village- Sananpatti, P.O-
Auraha, P.S.- Laukahi, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through Home Secretary, Government of Bihar, (Patna).
2. The Director General of Police Home Guard, Bihar (Patna).
3. The District Commandant, Home Guard, Madhubani.
4. The District Commandant, Home Guard, Patna.
5. The Superintendent of Police, Madhubani.
6. The Senior Superintendent of Police, Patna.
7. The Deputy Superintendent of Police Barh, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bipin Kumar, Advocate
For the State : Mr. Md. Nasrul Huda Khan, SC-1
Ms. Babita Kumari, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 27-07-2018

Heard learned counsel for the petitioner and the State.

2. The petitioner has moved the Court for the following

reliefs:

“(a) That this is an application for issuance of an appropriate writ or writs, order or direction to the respondent authorities to grant death-cum-post retiral benefit of the petitioner’s husband to the petitioner with appropriate order or direction.

(b) that an appropriate order or direction may be issued to the Respondent authorities to grant family pension to the petitioner w.e.f. 03.01.2015.

(c) Than an appropriate order or direction may be issued to the Respondent authorities to grant any other relief or reliefs for which the petitioner entitled.”



3. The undisputed facts are that the husband of the petitioner was a Home Guard and his service tenure ended on 27.09.2013. Such communication was also made to the Deputy Commandant General, Home Guard, Patna on 02.09.2013. On 03.01.2015, he was killed near Darbhanga Railway Station.

4. Learned counsel for the petitioner submitted that even after his superannuation, when work was being taken, he has to be considered to be in employment and, thus, all due benefits have to be given to him.

5. Learned counsel further submitted that the original petitioner has died and the son is now claiming benefits.

6. Learned counsel for the State submitted that payment can be made taking into account the death of the person who was killed on duty. It was submitted that in the present case, when admittedly the date of superannuation is 27.09.2013, there is no question of any retiral benefits being due and payable to the petitioner who is the wife of the deceased. It was further submitted that in the records of the authorities also, there is nothing to show that the deceased was sent to Patna by the Commandant, Madhubani on official work.

7. Having considered the facts and circumstances of the case, in the present jurisdiction, the Court finds itself handicapped in



coming to a final view as there is total dispute on facts. The only fact which is undisputed is that the husband of the petitioner attained the age of superannuation on 27.09.2013 and thereafter was killed on 03.01.2015. Moreover, there was nothing to show that he was ever engaged, much less, by a competent person after his superannuation. There are only references to him being on duty in some communication between the authorities. Once death is much beyond the age of superannuation and nothing on record to show that the husband of the petitioner was ever engaged, much less validly and legally, no specific direction can be issued to the authorities for making any payment.

8. In view thereof, the writ petition stand disposed off.

9. However, the heirs of the petitioner are at liberty to approach the authorities concerned for verifying it from the records as to whether the petitioner's husband was at any time legally and validly reengaged. If evidence to such effect comes, natural consequences shall follow with regard to payment of any due to which the petitioner's heirs may be legally entitled under law.

(Ahsanuddin Amanullah, J.)

P. Kumar

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