

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14686 of 2019

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Lalita Devi Wife of Late Gangadhar Mishra Resident of Village- Ramdiri,
Post- Lawherchak, P.S.- Matihani, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Home Department, Govt. of Bihar, Patna.
2. Accountant General, Bihar, Patna.
3. The Director General of Police (Home Guard), Bihar, Patna.
4. The Additional Director General of Police (Home Guard), Bihar, Patna.
5. The Inspector General of Police (Home Guard), Bihar, Patna.
6. The Commandant (Home Guard), Bihar, Patna.
7. The District Commandant (Home Guard), Bihar, Madhepura.
8. The District Commandant (Home Guard), Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mirtunjay Kumar Mishra, Advocate Mr. Ranjan Kumar Jha
For the Respondent/s	:	Mr. P.K. Verma (AAG3) Ms. Divya Verma, AC to A.A.G. 3
For the Accountant General	:	Mr. Ram Kinkar Choubey, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 24-07-2019

Heard the learned counsel for the parties.

The petitioner has approached this Court for a direction to the concerned respondent for quashing the order contained in Memo No. 631 dated 17.02.2017 and 28.12.2011, respectively, issued under the signature of the District Commandant, Home Guard, Bihar, Patna.



It appears that by order dated 03.08.1994, certain deductions were directed to be made from the salary of the husband of the petitioner in easy installment. Such order was passed with respect to many of the Home Guards. Some of the affected persons approached the High Court *vide* C.W.J.C. No. 13903 of 2003. This Court, taking into account all the aspects of the matter, stopped the recovery of the excess amount paid to the petitioner but at the same directed that the salary of such persons shall be fixed at the lower scale.

The department thereafter complied with the order with respect to the person, who had approached the Court but continued with the recovery with respect to other persons including the petitioner. This was again challenged by another set of affected persons *vide* C.W.J.C. No. 1708 of 2009 (Mithilesh Kumar Sinha & Ors. Versus The State of Bihar & Ors.). In the aforesaid case, by order dated 04.07.2011, a Bench of this Court taking into account the principles laid down in **(2006) 2 SCC 747 (State of Karnataka Versus C. Lalitha)** and **(2006) 9 SCC 406 (K. T. Veerappa Versus State of Karnataka)**, held that the other employees, similarly situated, need be



treated similarly. The petitioners therein were therefore held to be entitled to be given the same benefits which were granted to other similarly situated persons.

Learned counsel for the petitioner has submitted that several representations of the petitioner before the District Commandant, Home Guard, Madhepura and other superior authorities for giving the same treatment so far as the service of the husband of the petitioner is concerned has gone unheeded.

The entire so called excess amount paid now stands recovered from the salary of the husband of the petitioner and the payment which the petitioner as the widow of the aforesaid employee is getting is also less which need to be revisited, verified and rectified finally.

In the aforesaid factual background, this Court directs the petitioner to make a detailed representation, bringing on record the orders passed by this Court on which she is relying, before the Additional Director General of Police (Home Guard), Bihar, Patna (Respondent No. 4), within a period of three weeks, who, on receipt of such representation



shall verify the facts and pass a reasoned order in accordance with law, within a further period of eight weeks of the receipt of such representation. Needless to state that if the claim of the petitioner is found to be tenable, necessary orders shall be passed without any delay and within the time-line prescribed. He shall also keep in mind that the petitioner is a widow and has been representing before the various authorities for a long time.

With the aforesaid observation / direction, this petition stands disposed off.

(Ashutosh Kumar, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	26.07.2019
Transmission Date	

