

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1069 of 2016
In
Civil Writ Jurisdiction Case No.4415 of 2015

Mindra Devi, Widow of Late Awadhesh Prasad, resident of Village- Rupaspur,
P.O- Bansdih, P.S- Tharthari, District- Nalanda.

... .. Appellant

Versus

1. The State of Bihar.
2. The Special Secretary, Home (Special) Department, Bihar, Patna.
3. The Under Secretary-cum- Nodal Padadhikari, Home Department, Bihar, Patna.
4. The Director General of Police, Bihar, Patna.
5. The Inspector General of Police, Bihar, Patna.
6. The Principal Secretary, Urban Development and Housing Department, Bihar, Patna.
7. The Joint Secretary, Urban Development and Housing Department, Bihar, Patna.
8. The Under Secretary, Govt. of Bihar, Urban Development and Housing Department, Bihar, Patna.
9. The Deputy Secretary, Urban Development and Housing Department, Bihar, Patna.
10. The Principal Secretary, Finance Department, Bihar, Patna.
11. The District Magistrate, Nalanda at Biharsharif.
12. The Election Officer-cum-District Officer, Nalanda.
13. The Superintendent of Police, Nalanda.
14. The Commandant Civil Defence Corps (GRIHA RAKSHA WAHINI), Nalanda.
15. The Station Head Officer, Bihar Police Station, District- Nalanda.

... .. Respondents

Appearance :

For the Appellant/s	:	Dr. Uma Shankar Prasad, Sr. Advocate Mr. Dineshwar Prasad Singh, Advocate Mr. Kamla Kant Tiwary, Advocate
For the State	:	Mr. Manish Kumar, A.C. to G.P.-12

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

And

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)



Date : 17-09-2019

Heard learned counsel for the appellant and learned counsel for the State.

2. In this case, the appellant is the wife of late Awadhesh Prasad, who was the member of the Home Guard, was deputed in connection with election of Municipal Corporation of the year 2012 along with other Police party including Sub Inspector Bhola Prasad. Accordingly, he reached at night to the Middle School, Imadpur for conducting the election for Booth No.11 along with his associates namely, Krishna Kant Yadav, District Police No.1009 and Md. Shoab Alam, Home Guard No.111332. On 17.05.2012 at about 5:00 P.M. the husband of the appellant complained uneasiness, informed his colleagues that he was feeling dyspepsia and severe pain in chest and subsequently fell down on the ground, he was brought to the hospital for treatment but, doctor declared him dead. The appellant in pursuance of Resolution No.95 dated 20.01.2005, filed an application for grant of compensation of Rs.10,00,000/-, which stipulates that any Government servant including the Police Personnel deputed in election duty, died on account of violence, accident or any other reasons, the dependent would be entitled to Rs.10,00,000/- and the personnel



from the Central Force would be entitled to Rs.2,50,000/- and rest payment of Rs.7,50,000/- would be made by the Central Government.

3. It also appears that after receipt of the application, the District Magistrate-cum- Returning Officer, Nalanda, vide memo no. 115 dated 06.06.2012 narrated the fact in detail to the Principal Secretary, that Awadhesh Prasad had died while he was deputed in election duty of the Municipal Corporation and as such in terms of aforesaid Resolution, recommended for payment of Rs.10,00,000/- but, ultimately, the claim of the appellant has been rejected vide memo no.1658 dated 23.02.2016 taking ground that the death has no casual connection with the duty assigned, placing reliance on Explanatory Resolution No.620 dated 27.05.2015 explained the Resolution No.95 dated 20.01.2005.

4. Learned counsel for the appellant submits that on plain reading of the Resolution No.95 dated 20.01.2005, which the State Government vide memo no.477 dated 12.04.2012 made applicable to those who are deputed in connection with election of the Municipal Corporation. The Resolution dated 27.05.2015 will not be applicable to the present case in view of the fact that Awadhesh Prasad has died on 17.05. 2012 i.e. prior



to existence of said Resolution. So it will be covered by the Resolution No.95 dated 20.01.2005.

5. Learned counsel for the State has submitted that the State Government has issued another Resolution No.2411 dated 12.11.2005, wherein it has been mentioned that the benefit would be given to those who died on account of violence but, 2015 Resolution has not taken cognizance of said Resolution inasmuch as the Government has extended the applicability of Resolution no.95 dated 20.01.2005 to those who deputed in the election duty, which very much explains, compensation would be paid to only those who have died on account of violence in the election and to those who died on account of accident or any other reasons.

6. Having considered the rival contentions of the parties, the death of Awadhesh Prasad cannot be said that it has no connection with the election duty as while he was in election duty he developed the chest pain, subsequently died. So in our opinion the death of Awadhesh Prasad has a direct connection with the election of the Municipal Corporation.

7. In such view of the matter, we are of the opinion that the appellant is entitled to the compensation of



Rs.10,00,000/- in terms of Resolution No. 95 dated 20.01.2005 as the Resolution dated 27.05.2015 does not cover the present case.

8. Accordingly, the decision vide moe no. 1658 dated 23.02.2016 is set aside. Consequently, the judgment and order of the learned Single Judge dated 05.04.2016 passed in C.W.J.C. No. 4415 of 2015 is set aside. We direct the Principal Secretary, Home Department, Government of Bihar, Patna, to make payment of compensation of Rs.10,00,000/- to the appellant within a period of three months from the date of receipt/production of a copy of this order.

9. With the aforesaid observations and directions, this appeal is allowed.

(Shivaji Pandey, J)

(Partha Sarthy, J)

pawan/-

AFR/NAFR	N.A.F.R.
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