

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.646 of 2017

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Masomat Kiran Devi wife of Late Chandeshwar Singh, resident of Village-
Malangia, P.O.- Malagia, P.S.- Madhubani, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home (Special) Department, Government of Bihar, Patna, Secretariat, Patna.
2. The Cabinet Secretary, Government of Bihar, Patna.
3. The Dy. Secretary of the Government of Bihar, Home Special Department Government of Bihar, Patna.
4. The District Magistrate, Madhubani.
5. The Superintendent of Police, Madhubani.
6. The Jail Superintendent Madhubani Jail District Madhubani.
7. The Additional Secretary Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Jha
For the Respondent/s : Mr.Sheoshankar Prasad-Sc8

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 01-08-2019

The present writ petition has been filed for quashing the Memo No. 896 dated 04.11.2015 issued by the Deputy Secretary, Government of Bihar (Home Special) by which the claim of the petitioner for grant of pension under the J.P. Senani Samman Yojana has been repudiated as also to direct the respondents to pay pension to the petitioner under the J.P. Senani Samman Yojana as per the provisions of the notification of the Government of Bihar dated 15.07.2013.

2. The brief facts of the case are that the husband of the petitioner, namely Chandeshwar Singh is stated to be a



social activist and had taken part in the J.P. movement in the year 1975 and had also been sent to the jail and had remained in custody from 10.05.1975 to 18.08.1975 in connection with Madhubani P.S. Case No. 65 of 1975. It is the case of the petitioner that her husband was entitled to pension under the scheme formulated by the Government of Bihar vide resolution dated 15.07.2015.

3. The learned counsel appearing for the respondents has submitted that the Home (Special) Department vide circular dated 27.04.2007 as also by a subsequent resolution dated 29.12.2010, had constituted a committee of group of Ministers to make recommendations for formulating eligibility criteria for payment of Samman pension whereafter, upon receipt of the said recommendation, the Home (Special) Department invited application from eligible persons till 30.11.2007, by publishing a press communique, to the said effect in the leading newspaper. The Home (Special) department, Government of Bihar, after due consideration, issued a resolution dated 05.06.2009 whereby eligibility criterias were formulated for granting pension, for granting appreciation certificate, mementos etc. to the eligible persons. One of the eligibility criteria, for grant of pension under the J.P. Samman Yojana, is detention of the



concerned persons under the maintenance of Internal Security Act (MISA) or Defence of India Rules (D.I.R.) in J.P. Movement during the period 18.03.1974 to 21.03.1977. Any person, who remained in jail under the provisions of any other law except MISA or D.I.R. is not eligible for pension under the J.P. Samman Yojana.

4. Now, coming back to the present case, it has been submitted in the counter affidavit filed by the respondents, that the last date for applying for the aforesaid pension was 31.12.2007, however, upon perusal of the records and database, the name of the husband of the petitioner does not figure in the list of such persons, who had applied upto 31.12.2007. It is further submitted that the husband of the petitioner has died on 13.01.2013 and there is no provision for grant of family pension in the J.P. Senani scheme as per the resolution dated 05.06.2009, however, in the year 2015, though the Government of Bihar has liberalized the J.P. Senani scheme and a provision has been made for grant of family pension to the spouse of a pensioner under the J.P. Senani Scheme, but in the present case since the husband of the petitioner was not receiving any pension under the J.P. Senani scheme, consequently the petitioner is not entitled for any family pension and the aforesaid resolution of



the Government of Bihar dated 15.07.2015 is not applicable in the present case. Lastly, it is submitted that the claim of the petitioner is also barred by delay and laches and since the husband of the petitioner had not approached the authority for grant of such pension during his life time, the present case is also barred by the principles of waiver, estoppel and acquiescence.

5. Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, as canvassed on behalf of the respondents, there is no merit in the present writ petition, hence, the same is dismissed.

(Mohit Kumar Shah, J)

Tiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
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