

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
Civil Writ Jurisdiction Case No.12044 of 2019**

Shyam Pyari Devi Wife of Late Rameshwar Rai Resident of Village- Sherpur,
P.S.- Maner, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar Bihar.
2. The Chief Secretary, Bihar, Patna.
3. The Principal Secretary, Home Department, Bihar, Patna.
4. The Director General of Police, Bihar, Patna.
5. The Deputy Inspector General of Police Darbhanga Range, Darbhanga.
6. The Deputy Inspector General of Police, Purnea Range, Purnea.
7. The Superintendent of Police Purnea.
8. The Sub Divisional Police Officer, Baisi in the District of Purnea.
9. The Officer In-charge of Police Station Baisi in the District of Purnea.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Sharma,Advocate
For the Respondent/s : Mr.Sheo Shankar Prasad (SC8), APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 16-06-2020 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner in the present case is aggrieved by and
dissatisfied with the order as contained in Memo no.
232/410715(p) dated 08.02.2019 issued under signature of
Director General of Police, Bihar whereby the representation of
the petitioner for grant of special family pension has been
rejected.

A perusal of the impugned order as contained in
Annexure '7' would show that the representation of the



petitioner was considered keeping in view the fact that the husband of the petitioner had died when the government jeep in which he was sitting met an accident because of some mistake of the driver of the jeep at NH31. Husband of the petitioner who was A.S.I. was there in the jeep, he was on duty and had gone to arrest an absconder. The Director General of Police, Bihar went through the provisions contained under the Resolution No. 2411 dated 12.11.2005 issued by the Department of Finance, Government of Bihar particularly paragraph 4(2)(1) thereunder and held that the case of the petitioner's husband would not be covered under the said paragraph.

Learned counsel for the petitioner submits that husband of the petitioner was on his duty when the jeep driver committed mistake in keeping side with the jeep at NH31 and as the jeep fell down in a ditch near the underconstructed road, while some of the police personnel suffered injuries, the husband of the petitioner died because of serious injuries suffered by him in the accident. It is submitted that the petitioner has been provided with ex-gratia amount of Rs.10 Lakhs and one of the dependents has been given the government job but it is the case of the petitioner that she would also be entitled for the special family pension in terms of paragraph 4(2)



(1) of the resolution. Learned counsel has relied upon a learned Coordinate Bench judgment of this Court in the case of **Shobha Devi and Anr versus The State of Bihar and Ors** reported in **2019 (3) PLJR 534** to submit that similar circumstance government has allowed the special family pension to the petitioners in the said case.

On the other hand, by filing a counter affidavit respondent no. 7 has opposed the writ application. It is submitted that the husband of the petitioner had gone to arrest one absconder and while returning, near Hareram Chowk at NH31 his jeep met an accident and the husband of the petitioner got serious injuries because of which he died. It is further stand of the respondent that he did not find it a fit case covered under the Resolution no. 2411 dated 12.11.2005. In paragraph '18' however a further statement has been made that instructions have been sought by the answering respondent from the Accountant General Bihar, Patna by letter no. 56/Pension dated 27.09.2018 in the matter to the facts that "as to whether the writ petitioner will get the benefit of Full Salary as Special Family Pension in view of Bihar Gazette Dep. Finance Notification No. 27 Pen – 78120052411 dated 12.11.2005 Clause 4(2)(1)". It is stated that the same is awaited.



This Court has heard the matter at length. So far as the impugned order is concerned, learned counsel for the petitioner has challenged the same on his perception that the death of the husband of the petitioner in the jeep accident would be covered under the relevant resolution. However, judgment of the learned Coordinate Bench on which reliance has been placed has been rendered in a different facts situation as it is apparent from the order itself. In the said case, the husband of the petitioner died while engaged in an encounter.

Learned counsel for the petitioner, however submits at this stage that in view of paragraph '18' of the counter affidavit the petitioner may be allowed to withdraw this writ application and await the final outcome of the instructions said to have been sought from the Accountant General, Bihar. Learned counsel submits that he is seeking the withdrawal unconditionally at this stage however such withdrawal should not come in the way of the respondents in giving the benefits to the petitioner in case the Accountant General, Bihar gives his opinion in favour of the petitioner.

This Court is of the view that even though learned counsel for the petitioner is withdrawing the writ application unconditionally as against the impugned order, in view of the



specific statement made by the respondents on their own in paragraph '18' of the counter affidavit, they would be obliged to take a view once instruction is received from the accountant General, Bihar. Since the Accountant General, Bihar is not a party in this writ application no direction can be issued. However it is expected that the State respondents shall follow up the matter with the Accountant General, if the communication is pending and an appropriate view shall be taken based on his opinion if it comes in favour of the petitioner within a period of three months.

This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

