

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20959 of 2014

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Lilawati Devi wife of Late virendra Narayan Sinha Resident of Village/Mohalla- Mahajan Toli Kanhai Mal , ward No- 14, Hajipur District- Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Bihar, Patna.
2. The Director General, Home Guard, Bihar, Patna.
3. The Special Secretary, Home Special, Department, Govt. of Bihar, Main Secretariate.
4. The District Commandant, Home Guard , District - Vaishali.
5. The Divisional Commandant, Home Guard, Vaishali , Hajipur District- Vaishali, Hajipur.
6. The Superintendent of Police, District- Vaishali, Hajipur.
7. The Police Incharge / Police Officer , Police Station - Hajipur Town Police Station , District- Vai

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajeet Kumar Bhardwaj
For the Respondent/s : Ms. Deepika Sharma, A.C. to SC-9

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 06-12-2022 Heard Mr. Ajeet Kumar Bhardwaj, learned counsel for the petitioner and Ms. Deepika Sharma, learned A.C. to Standing Counsel-9 for the respondents.

The present writ petition has been filed *inter alia* of the facts that the petitioner's husband was working as Home Guard No. 291122. He died during the working period on 21.03.2012 accordingly the petitioner seeks a direction from this Court against the respondent-authorities to pay *ex-gratia* and death-cum-retirement benefit to the petitioner.



Learned counsel for the petitioner submits that husband of the petitioner was appointed in the year 1974 as Home Guard, he discharged his duties as Home Guard at various places and ultimately during the course of his employment he fell ill on 21.11.2011 and during course of treatment he died on 21.03.2012 in Mahavir Cancer Sansthan. He further submits that petitioner, who is widow of the deceased Home Guard, has got no source of income, and as such, she is entitled to be given death- cum- retiral benefits.

On the other hand, learned counsel for the State submits that Home Guards are appointed on rotation basis for two months as volunteer. They are paid wages for the period they are engaged as volunteer for discharge of duty on day to day basis. No regular scale is fixed for the Home Guards and the Bihar Pension Rules do not apply in the case of Home Guards. Learned counsel referring to the Circular dated 17.02.2010 kept at Annexure -“B” which is part of the counter affidavit filed on behalf of respondent nos. 1 to 5 submits that Government has taken decision to pay *ex-gratia* to the Home Guards in case of their death during extremist violence or Police encounter. According to the State Counsel, as admitted by the petitioner herself, her husband had fallen ill on 21.11.2011 and died of



cancer on 21.03.2012. The husband of the petitioner was relieved from the roll of Home Guard on 27.11.2011, and as such, the petitioner is not entitled to be given *ex gratia* or payment towards death -cum- retiral benefit.

I have heard learned counsel for the parties and have gone through the materials on record. It transpires from the record that the husband of the petitioner died of cancer. The payment of *ex gratia* to Home Guards is admissible only in case of their death due to extremist violence or during the course of Police encounter. The petitioner has not brought any material, Rules and / or Circular in order to show that the petitioner is entitled for death- cum -retiral benefit of her husband.

In view of the aforesaid, I do not find any merit in this application. The same is accordingly rejected.

(Anil Kumar Sinha, J)

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