

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15177 of 2012

=====

Rekha Kumari W/O Late Arun Kumar R/O Village- Gadopur, Post-
Kamalpura, Police Station- Paru, District- Muzaffarpur

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, General Administration Department, Govt. Of Bihar, Patna
2. Principal Secretary Department Of Finance, Govt. Of Bihar, Patna
3. District Magistrate, Siwan, District- Siwan
4. Superintendent Of Police, Siwan, District- Siwan
5. Sergeant Major, Siwan, District- Siwan
6. State Election Commission, Through Commissioner State Election Commission, Patna, Bihar

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Jitendra Prasad Singh, Advocate
		Mr. Rajeev Kumar, Advocate
For the State	:	Mr. Manish Kumar, AC to GP-12
For the E.C.	:	Mr. Girish Pandey, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 16-05-2024

Heard Mr. Jitendra Prasad Singh, learned counsel
appearing on behalf of the petitioner; Mr. Manish Kumar,
learned AC to GP-12 for the State and Mr. Girish Pandey,
learned counsel for the Election Commission.

2. Petitioner has prayed for following relief(s) in
paragraph no. 1 of the writ petition:

*"1. That this is an application for direction to
the respondents to pay the amount of compensation to the
petitioner as per the resolution/circular of finance
Department dated 1.4.2009 on the death of her husband
while he was deputed in election duty by issuing a writ in
the nature of mandamus or any other writ/writs."*

3. The grievance of the petitioner relates to



payment of compensation as a result of death of her husband on 09.10.2010, while he was deputed in Election duty of Bihar Legislative Assembly Election, 2010. The husband of the petitioner was constable driver and during the said period, he was incharge of vehicle having Registration No. BR29B-9856 (Bajra Vahan). A certificate in this regard was also issued by the Superintendent of Police, Siwan on 12.10.2010 contained in Memo No. 2385. A Communication was made by the Superintendent of Police, Siwan vide Memo No. 1243 dated 10.11.2010 to the District Election Officer, Siwan and to the Returning Officer-cum-District Magistrate, vide Memo No. 836 dated 10.03.2011. The grievance of the petitioner is that in terms of the decision of the Government of Bihar and Resolution of the Finance Department contained in Memo No. 78/5-2796 dated 01.04.2009, the petitioner is entitled for compensation on the death of her husband, while he was on election duty. The case of the petitioner was duly considered by the Superintendent of Police, Siwan but till date, no payment of compensation has been given to the petitioner, who is widow. It is the case of the petitioner that her husband was the only earning member of the family and as a result of his death, she is not in a position to meet the needs of her children and take care of herself.



4. A counter affidavit has been filed in which, it has been stated that the husband of the petitioner had not joined Siwan Collectorate on 09.10.2010 and rejection is on the ground that he may have died any time before his joining at the time and place of deputation.

5. Considering the fact that already steps have been taken by the Superintendent of Police and the matter is kept pending before the District Magistrate, who was also Returning Officer in 2010 Bihar Assembly Election notified, but no decision has been taken with regard to making payment of due compensation to the petitioner.

6. This Court finds that such a callous rejection by the District Magistrate defeats the beneficial decision taken by the State Government and the authorities have defeated the Rule of law to provide compensation to the government servant in the event of death during election duty beneficial in nature and object of welfare state.

7. The District Magistrate, Siwan, is directed to forthwith consider the claim of the petitioner, who is widow of driver constable, namely, Late Arun Kumar, in accordance with the prevailing circular at the relevant point of time considering the fact that already Superintendent of Police has communicated



him vide Memo No. 836 dated 10.03.2011 and still no decision has been communicated to the petitioner.

8. The District Magistrate must clarify the specific date, the election was announced and must consider that once the election is announced, according to the mandate of Article 324 of the Constitution of India, the model code of conduct comes into effect and the period is concerned for the purpose of election.

9. The reasons assigned by respondent no. 4 in the counter affidavit also cannot be accepted so far as, entitlement of the petitioner for making payment of compensation is concerned. The District Magistrate is directed to forthwith abide by the Government Resolution and take decision to make payment within a period of six weeks from the date of communication of this order.

10. With above observations and directions, the present writ petition is disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	17.05.2024
Transmission Date	N/A

