

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18435 of 2022

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Ameeraka Devi W/o Late Yadunath Kuwar R/o Village- Berwa, P.S.- Gaighat,
District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Director General of Police (Welfare Budget Appeal) Bihar, Patna.
2. Inspector General of Police Bihar, Patna.
3. Deputy Inspector General of Police, Saran Range, Chapra.
4. Deputy Inspector General of Police, Darbhanga Range, Darbhanga.
5. Superintendent of Police Rail, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shiva Shankar Sharma
For the Respondent/s : Mr. Md. N.H. Khan (SC 1)

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 04-01-2024

Heard Mr. Shiv Shankar Sharma, learned counsel appearing on behalf of the petitioner and Mr. Md. N. H. Khan, learned Standing Counsel -1 for the State.

2. The short facts, which led to the filing of the present writ petition are that the petitioner's husband namely, Late Yadunath Kuwar was appointed as Constable under the Railway Superintendent of Police, Muzffarpur on compassionate ground on 01.03.1983 on account of death of his brother namely, Baidyanath Kunwar, who died on 01.07.1978, in an encounter with the *dacoits*.

3. In fact on account of sudden demise of Baidyanath Kunwar, on the request made by the family members, who were



facing starvation, the husband of the petitioner was given appointment on compassionate ground. After a long period of time, the wife of late Baidyanath Kunwar filed a petition before the Director General of Police stating therein that the elder brother of her late husband was appointed as Constable on the basis of forged and fabricated educational certificates. On being found no response, she filed CWJC No. 19836 of 2011, which application was disposed of vide order dated 01.07.2011 with a direction to the respondents to decide the representation by passing a speaking order within a period of two months. Pursuant to the direction of this Court an enquiry was conducted and it has been found that the date of birth of the petitioner's husband was mentioned as 20.05.1951 in the certificate of Middle School Examination. However, he obtained the appointment on compassionate ground by furnishing a false certificate of IXth Class, mentioning his date of birth as 20.10.1956, which is entered in the service book.

4. Taking note of the aforesaid enquiry report, the petitioner was put to departmental proceeding which resulted into compulsory retirement with a further direction that the husband of the petitioner had obtained his appointment on the basis of forged educational certificate and he ought to have



superannuated on 31.05.2011. Thus, a decision has also been taken to recover the salary amount paid to him for the period 01.06.2011 to 31.01.2015. The order of the disciplinary authority issued under the signature of Superintendent of Police, Saran as contained in Memo No. 385 dated 03.01.2015 has been brought on record by way of Annexure C to the counter affidavit filed on behalf of the respondent No. 5.

5. It is further submitted on behalf of the petitioner that pursuant to the order of the disciplinary authority an FIR bearing Town P.S. Case No. 127 of 2015 was also instituted against the petitioner's husband. While the proceeding was going on, in connection with the aforementioned criminal case, in the meantime, the husband of the petitioner died on 11.03.2022 and, thus, the criminal trial abated on account of his death. It is the case of the petitioner that thereafter she filed several representations before the higher authority but till date the admissible retiral dues after deducting excess payment has not been accorded to her.

6. At this stage, learned Standing Counsel-1 submitted that since the very appointment of the petitioner was based on forged and fabricated educational certificate, apart from concealment of date of birth as also the appointment being



illegal and void *ab initio*, thus in such circumstances no benefit could be granted to her.

7. Considering the submissions made on behalf of the parties and taking note of the final order passed by the disciplinary authority in the departmental proceeding, wherein specific direction was given that the admissible compulsory retiral benefits and other dues shall be made after disposal of the criminal trial, which has now already been abated on account of death of the erstwhile employee. In such view of the matter, this Court directs the respondent No. 5 to consider the representation of the petitioner in the light of the fact that the criminal trial has already abated on account of death of the erstwhile employee, and shall pass an order on the representation filed by the petitioner ensuring payment of admissible compulsory retiral/terminal dues of the petitioner’s husband found payable, preferably within a period of eight weeks from the date of receipt/production of a copy of this order.

8. The writ petition accordingly stands disposed of.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	09.01.2024
Transmission Date	

