

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.734 of 2022

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Sunita Devi Wife of Late Rajkishor Singh Resident of Purani Bazar,
Mahamadpur Balmi, Motipur, P.O. and P.S. Motipur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The District Magistrate, Begusarai.
4. The Superintendent of Police, Begusarai.
5. The Circle Officer, Teghra, District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh, Advocate
For the Respondent/s : Mr. Sheo Shankar Prasad (Sc-8)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 22-12-2025

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed for the
following relief/s:-

*“I. For issuance of an appropriate
writ in the nature of MANDAMUS,
commanding and directing the
Respondent Authorities to pay the
amount of Rs. 10 Lacs as ex-gratia*



grant to the petitioner pursuant to the Finance Department Resolution contained in memo no.78/2005-1441 dated 10.10.2013 on the ground that the husband of the petitioner met an accident on 11.07.2016 during the course of discharge of his duty and subsequently he died on 12.07.2016.

(II) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities to pay the interest over the amount of ex-gratia grant to the petitioner on the ground that the delay has been occurred due to laches and inaction on the part of the Respondents.

(III) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of



the case.”

3. Learned counsel for the petitioner submits that the husband of the petitioner was posted as an Assistant Sub-Inspector of Police in Bachhwara Rail Police Station. He submits that the husband of the petitioner along with the Station Head Officer of Bachhwara Rail Police Station and others proceeded from the police station by a government Bolero vehicle on 11.07.2016 to Barauni for raid in connection with Bachhwara Rail P.S Case No. 01 of 2016 registered for the offence under section 379 of the Indian Penal Code. But, in the way, the said Bolero vehicle met with an accident with a Maruti Swift Car bearing Registration No. BR9P-3582. In result, the petitioner's husband died. Counsel submits that after the death of the petitioner's husband, the Superintendent of Police recommended his case for the grant of *ex-gratia* amount of Rs. 10,00,000/- (Rupees Ten Lakhs), as the petitioner's husband died while discharging his duties. Counsel submits that according to the Circular/Resolution contained in Memo No.78/2005-1441 dated 10.10.2013 (Annexure-P/4), it is categorically stated that while discharging duty, if, accident took place which resulted into death, then the dependent of that government servant become entitled to receive the *ex-gratia*



amount. He submits that the said *ex-gratia* amount of Rs. 10,00,000/- (Rupees Ten Lakhs) has not been granted to the petitioner till date, and in-spite of the recommendation made by the Superintendent of Police, the payment has not been made. Therefore, the present writ petition has been filed for the said relief.

4. Learned counsel for the State on the other hand submits that the petitioner is not entitled for *ex-gratia* amount, as the petitioner has already received accidental claim. But, the present case is not covered under the claim which the petitioner is demanding in the name of grant of *ex-gratia* during active performance of duty. He submits that there is distinction between discharging of duty and active performance of duty. He further submits that the case of the petitioner does not come under the active performance of duty and hence, the petitioner is not entitled for grant of *ex-gratia*, particularly in the light of Clause 3 and 4 of the Circular/Resolution contained in Memo No.78/2005-1441 dated 10.10.2013 (Annexure-P/4).

5. With a view to adjudicate the claim, it is necessary to quote the said Circular/Resolution contained in Memo No.78/2005-1441 dated 10.10.2013 (Annexure-P/4) which is as follows:-



Annexure - 4

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सामग्रीक कार्यविधि

10. इस परिपत्र की प्रतिलिपि को पूर्णतः सही विभागीय अधिकारियों द्वारा संबंधित मामलों के निपटारे के लिए अग्रिम पत्र और संबंधित परामर्शियों को लिखित रूप में प्रेषित किया जाएगा और उसकी प्रति भिन्न विभाग (पैशन शाखा) को भी जाएगी।
11. इस परिपत्र के निर्गत किये जाने के पश्चात् दिनों के अन्दर सभी साहू पर संयोजित कर्मचारियों की नियुक्ति सूची की पंजी सूची बनाने और गतिविधियों के लिए नई व्यवस्था की सूचना संबंधित परामर्शियों द्वारा अपने नियंत्रण अधिकारियों को और संबंधित प्रविष्टि विभागों द्वारा भिन्न विभाग (पैशन शाखा) को भी जाएगी।
कृपया इसे प्राथमिकता दी जाए।

कर्तव्य अवधि में सक्रिय कर्तव्य निर्वहन के क्रम में दुर्घटना के कारण मृत्यु होने पर सरकारी सेवकों के आश्रितों को अनुग्रह-अनुदान की स्वीकृति

बिहार सरकार, वित्त विभाग, संकल्प संख्या सं-वि (27) के को. 78/2005-1441 वि., दिनांक 10.10.2013

विषय: कर्तव्य अवधि में सक्रिय कर्तव्य निर्वहन के क्रम में दुर्घटना के कारण मृत्यु होने पर सरकारी सेवकों के आश्रितों को अनुग्रह-अनुदान स्वीकृति देने के संबंध में।

1. भारत सरकार, कार्मिक लोक शिकायत पेंशन मंत्रालय, नई दिल्ली के अपने पत्र-संख्या सं-38/37/08-PSPW (A) दिनांक 02.09.2008 के द्वारा संबंधित कर्मियों के परिवारों के लिये कर्तव्य अवधि में निर्यत कर्तव्य (Bonafide Official Duty) निर्वहन के दौरान कर्मचारियों की मृत्यु होने पर उनके परिवार को निम्न वर्गित स्थिति के अनुरूप अनुग्रह अनुदान स्वीकृत करने की व्यवस्था की गई है:-

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| (क) कर्तव्य अवधि के दौरान दुर्घटना के कारण मृत्यु होने पर | 10 लाख |
| (ख) कर्तव्य अवधि के दौरान उग्रवाद, असामान्य ताप एवं अन्य अवांछित तत्वों के द्वारा हिंसा में मृत्यु होने पर | 10 लाख |
| (ग) दुर्घटना की परिस्थिति के कारण अंतर्राष्ट्रीय लड़ाई अथवा सौम्य या दुर्घटना के कारण, अंतर्राष्ट्रीय परिस्थिति में मृत्यु होने पर | 15 लाख |
| (घ) कर्तव्य निर्वहन के दौरान अत्यधिक ऊँचाई पर (High altitude), दुर्गम (Inaccessible) सीमा पर, प्राकृतिक आपदा अथवा चरम मौसम की स्थिति (Extreme weather condition) में मृत्यु होने पर | 15 लाख |

2. वित्त विभाग संकल्प संख्या-2411 दिनांक 12.11.2005 के द्वारा कर्मों के सरकारी सेवकों के कर्तव्य अवधि में उग्रवाद अथवा अन्य हिंसा गतिविधियों में मारे जाने पर उनके आश्रितों को 10 (दस) लाख रुपये अनुग्रह-अनुदान देने का व्यवस्था है। कर्तव्य अवधि में सक्रिय कर्तव्य निर्वहन (Active performance of duty) के दौरान दुर्घटना के कारण मृत्यु होने पर अनुग्रह-अनुदान का व्यवधान बिहार सरकार के उक्त संबंधित संकल्प में नहीं है।

3. राज्य सरकार ने अधिनियम 1955 के तहत सभी सरकारी सेवकों के सक्रिय कर्तव्य निर्वहन (Active official duty) के क्रम में दुर्घटनाग्रस्त होने की आशंका को छोड़ कर और कोई भी दुर्घटना के कारण मृत्यु की जाती है।

उदाहरण के तहत प्राकृतिक आपदा में लोगों की जान-माल की हानि एवं राहत पहुँचाने के क्रम में, अग्निशमन कर्मियों द्वारा अग्निशमन के दौरान लोगों की जान-माल बचाने के क्रम में कर्तव्य निर्वहन के समय इमारत टूटने (Building Collapse), जहरीली गैस (Toxic gas) से दम घुटने, विद्युत चार्ज/यांत्रिक चोट लगने (Electric Mechanical Injury) जैसी दुर्घटना से मृत्यु होना (Active performance of official duty) के निर्वहन के दौरान हुई मृत्यु की परिधि में आवेगा। सामान्य तौर पर कार्यस्थल में या कर्तव्य समय से आने-जाने के क्रम में हुई दुर्घटना

जहाँ दुर्घटना या रोग फैलने या अन्य किसी मौसमी के कारण कर्तव्य अवधि में हुई मृत्यु की परिधि में नहीं आवेगा।
4. राज्य सरकार द्वारा संयुक्त विचारों पर निर्णय लिया गया है कि राज्य के सरकारी सेवकों की उपस्थिति अनुसूची-3 के तहत मामलों में सक्रिय कर्तव्य निर्वहन के क्रम में दुर्घटना के कारण मृत्यु होने पर उनके आश्रितों को 10 (दस) लाख रुपये की राशि अनुग्रह-अनुदान के रूप में स्वीकृत की जाएगी यहाँ तक कि दुर्घटना, सक्रिय कर्तव्य निर्वहन (Active performance of duty) से कार्य-कारण के रूप में (Casual Connection) जुड़ी हो।
नोट: आदेश दिया जाता है कि इस संकल्प को बिहार राजपत्र के अगले अंक में प्रकाशित किया जाए।

6. It transpires to this Court that the subject under



which the said Circular/Resolution has been issued is already quoted above and the subject is very clear i.e. “कर्तव्य अवधि में सक्रिय कर्तव्य निर्वहन के क्रम में दुर्घटना के कारण मृत्यु होने पर सरकारी सेवकों के आश्रितों को अनुग्रह अनुदान की स्वीकृति.”

7. Here in the present case, the husband of the petitioner admittedly working as an Assistant Sub-Inspector of Police in Bachhwara Rail Police Station and admittedly being a member of the raid party relating to Bachhwara Rail P.S Case No. 01 of 2016 registered for the offence under section 379 of the Indian Penal Code, the husband of the petitioner along with other police personnel were going by Bolero vehicle towards Teghra police station, but in the meantime, the collision takes place between a Maruti Swift Car bearing Registration No. BR9P-3582 and the Bolero vehicle, due to which the said Bolero vehicle in which the petitioner's husband and others were sitting went into 20 ft. ditch and in result, the petitioner's husband died.

8. There are three aspects of the matter which is necessary to be discussed here. Upon a specific query, learned counsel for the State submits that the insurance of government vehicle is not required and no government vehicle is used to be insured. Whether the government has taken effort for realization



of the insurance money from the owner of Maruti vehicle whose number was apparent in the FIR itself, it has been intimated by both the counsel that they are not aware of this fact that whether the government has tried or made any effort for realization of the said amount either from the Insurance Company or from the owner of said Maruti Car, as under the Motor Vehicles Act, 1988 (Act No. 59 of 1988) the law said so. But after recommendation of *ex-gratia* amount of Rs. 10,00,000/- (Rupees Ten Lakhs) by the Superintendent of Police, the State at the highest level started opposing the same on the ground that the said death has not taken place during the active performance of duty, but it may have taken place during discharging of duty.

9. It is an unfortunate situation that in India, which is described as a welfare State, no insurance was taken for the government vehicle, no effort was made by the State to provide insurance coverage to the petitioner's husband under the Motor Vehicles Act, 1988, and *ex-gratia* assistance has also been denied, despite the same being governed by Annexure P/4, i.e., the Circular/Resolution contained in Memo No. 78/2005-1441 dated 10.10.2013. On the ground that the petitioner's case does not fall under active performance of duty, this Court does not agree with the contention of the learned counsel for the State



and directs that every circular ought to be interpreted in a positive manner. Admittedly, from the FIR it transpires that the petitioner was actively part of the raid team and was proceeding towards Teghra Police Station, and during his active duty hours, the accident took place.

10. Hence, this Court is of the firm view that the petitioner is entitled for grant of *ex-gratia* amount of Rs. 10,00,000/- (Rupees Ten Lakhs). It is hereby directed that the said payment be made to the petitioner within six months from the date of production of receipt/copy of this order.

11. Accordingly, with the aforesaid observation and direction, the present writ petition stands allowed.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	23/12/2025
Transmission Date	NA

