IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.341 of 2024
In
Civil Writ Jurisdiction Case No.3644 of 2023

CNR No. BRHC010354742024

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The State of Bihar through the Principal Secretary Home (Police) Department, Bihar, Patna.

... ... Appellant/s

Versus

1. Madhu Bharti Wife of Late Jay Prakash, Resident of V/34, Flat No. -102, L.I.C. Colony, Kankarbagh, Patna.
2. The Principal Secretary Home (Police) Department, Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Bihar, Patna.
5. The Regional Inspector General of Police, Muzaffarpur Range, Muzaffarpur.
6. The District Magistrate, Gopalganj.
7. The Superintendent of Police, Gopalganj.
8. The Deputy Superintendent of Police, Hathuwa, Gopalganj.
9. The S.H.O. P.S.-Singhaulia, Gopalganj.

... ... Respondent/s

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Appearance :
For the Appellant/s : Mr. Harshvardhan Shivsundaram SC-16
For the Respondent/s : Mr. Nagendra Prasad Yadav No.1
Mr. Shambhu Sharan Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
and
HONOURABLE MR. JUSTICE RANA VIKRAM SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)

11 28-10-2026 Heard the parties.

2. The issue involved in the instant appeal is confined to the interpretation of Government of Bihar, Finance Department issued *vide* resolution no. 5508 dated 05.05.1997, and Resolution No. 7976 dated 23.11.2001 for the payment of

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ex-gratia amount to the deceased Police Officer, who died on duty, while discharging law and order control work.

3. Indisputably, the husband of the appellant was a Police Inspector at Gopalganj, Sadar. He was entrusted with the duty to maintain communal harmony and law and order situation during Saraswati Puja and emersion against anticipated extremist and rioters disruptive activities *vide* order dated 2nd February, 2009 issued by the Superintendent of Police Gopalganj.

4. It is also an admitted position that while discharging his duty, he died on duty of Cardiac Arrest. The widow of the deceased Police Inspector filed a writ, being C.W.J.C. No. 3644 of 2023, praying for a direction in the nature of Mandamus upon the respondents authorities for payment of ex-gratia amount as the said Police Officer died while discharging on duty, in order to control the terrorist and disruptive act.

5. The said writ petition was preceded by a representation filed by the writ petitioner/private respondent, which was rejected by the appellant/State Authority.

6. The learned Single Judge allowed the writ petition, directing the present appellant/State Authority to release ex-

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gratia payment in favor of the petitioner with the interest at the rate of 9% from the date of death of her husband along with the cost of the proceeding calculated at the Rs. 25,000/- (Twenty Five Thousand Only).

7. The said order was challenged by the State mainly on two counts:-

> *I, The writ petitioner filed C.W.J.C. No. 12530 of 2011 for a declaration that her husband be declared as Martyred as he died in course of his discharging duty to control law and order situation while combating, subversive and disrupting act by the rioters. The said declaration was denied by the learned Single Judge on the ground that a person can only be declared as Martyred, if he died during on active duty. However, if he is on duty and he suffers a severe Heart Attack, it cannot be said that such a person is entitled for being declared a Martyred.*
>
> *Secondly, the learned counsel for the appellant contends that Resolution No. 5508 dated 05.05.1997 and Resolution No. 7976 dated 23.11.2001 speak about payment of ex-gratia amount to a Police of Personnel only when he is killed by the disruptive force while on duty. In support of his contention, he refers to Clause-2 (क) of Resolution No. 5508 dated 05.05.1997, issued by of Finance Department, Government of Bihar, wherein it is stated :-*
>
> "उग्रवादी अथवा ऐसे किसी अन्य हिंसक गतिविधियों में कर्तव्य के दौरान मारे जाने वाले सरकारी सेवक को 2.50 लाख रुपयों देने के दर से उन्हें स्वीकृत किया जाए....."

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It is needless to state that subsequently, the ex-gratia amount it to Rs 10,00,000/- (Ten Lakhs Only).

*III The learned counsel for the State omitted to read sub-clause (**घ**) of Rule 2, where it is clearly stated that :-*

"हिंसक गतिविधियों में कर्तव्य के दौरान नियुक्त सरकारी सेवकों को भी उपयुक्त 2.50 लाख रुपयों की अधिसिमा तक अनुग्रह अनुदान स्वीकृत किया जा सकेगा, लेकिन ऐसे प्रत्येक मामला में गुण एवं दोष के आधार पर ये विचार कर निर्णय लेना होगा.."

8. The Finance Department *vide* Resolution No. 7976 dated 23rd November, 2001 enhanced the amount of ex-gratia payment to the tune of Rs. 10,00,000/- (Ten Lakhs Only), keeping other grounds in that.

9. The word **"मारे जाने वाले"** is interpreted by the learned Advocate on behalf of the appellant as the persons who were killed during performance of duty in maintaining law and order, in course of subversive extremist and disruptive activities. If a person dies due to physical ill health suffering from Heart Attack, he is not entitled to get ex-gratia payment.

10. We are unable to construe the above provision of Resolution No. 5508 dated 05.05.1997 in such narrow campus. There may be situations where a Police Personnel, while discharging his duty is *Gheraod* by disruptive mob and as a

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result of such prevailing tension and in consequence of threshing, jostling and menacing conduct of the rioters, he may suffer heart attack and died. The word *Ghayal*(injured) does not limit the interpretation only in favor of the persons who were actually killed by the disruptive forces.

11. The learned single Judge construed the above mentioned resolutions in absolutely in proper perspective in paragraphs 28 and 29 of the impugned judgment.

12. We do not find any infirmity or illegality in the impugned judgment and, accordingly, there is no reason for interference against the judgment passed by the learned Single Judge.

13. The appeal, thus, stands dismissed.

14. The appellant is directed to comply with the order passed by the learned Single Judge within four weeks from the date of passing of this order.

15. Before parting with, we may take note with lamentation that if such treatment is matted out by the State Government in favor of a deceased Police Officer, the Moral of the Police force will surely be degenerated. Therefore, the State Authority is directed to take a liberal view while interpreting a resolution so that the family of a deceased police employee may

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get some financial assistance in future.

(Bibek Chaudhuri, J)

(Rana Vikram Singh, J)

Sanjay/-

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