

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S). No. 205 of 2012

Sewanti Devi, wife of late Shiv Kumar Bhagat, resident of village Sarango Chatakpur, P.O. Sarango, P.S. Ghaghra, District Gumla, Jharkhand.

... ... **Petitioner**

V E R S U S

1. The State of Jharkhand.
2. The Secretary, Home Department, Govt. of Jharkhand, Ranchi.
3. The Director General of Police, Ranchi.
4. The Superintendent of Police, Bokaro.
5. Mangra Bhagat, son of late Kukra Bhagat, resident of village Dardag Timatoli, P.S. Ghaghra, P.O. Huttar, District Gumla.

... ... **Respondents.**

For Petitioner : Mr. Prem Pujari Roy, Advocate
For Respondents : Mr. Sandip Verma, JC to GP-IV

CORAM: HON'BLE MR. JUSTICE DR. S. N. PATHAK

03/ 30.11.2017 Heard learned counsel for the petitioner and learned J.C. to GP-IV for the State.

2. The petitioner has approached this Court with a prayer for quashing of letter dated 19.10.2011, passed by the Secretary, Department of Home, Govt. of Jharkhand, Ranchi denying the legally admissible dues of the petitioner on the ground of pendency of the Succession Case No. 12 of 2010 pending in the Court of District & Sessions Judge, Gumla although the same has been filed for a different purpose and with different prayer.

Further prayer has been made for commanding the respondents to immediately and forthwith grant the benefits with penal interest till the date of its payment in favour of the petitioner in the light of letter dated 21.03.2001, issued by the Home Department, Govt. of Jharkhand in relation to grant of benefit to wife/ family members of the martyr police personnel and other government officials, who have lost their lives in anti naxalites operations and further consequential benefits legally payable to the petitioner.

Petitioner has also prayed for consideration for appointment on government post to the dependent in view of the policy decision dated 21.03.2001 of the State.

3. The facts as derived from the writ petition are that the petitioner is a legally married wife of deceased constable, Shiv Kumar Bhagat of Gumla district. The husband of the petitioner was working with the Jharkhand Police as constable from the year 2005 and was effectively performing his duties to the satisfaction of the respondents. It is the case of the petitioner that on 12.06.2009 when the deceased husband was posted in Nawadah Police Station in the district of Bokaro as a constable, he along with other police personnel while performing their duties came under land mines explosion triggered by naxalites which blew their anti-land mine vehicle on which they were traveling for countering the attack made by the extremists. Due to the aforesaid land mine blast triggered by the naxalites, the husband of the petitioner and nine other police personnel got grievous injuries on their bodies and later on, during the course of treatment all of them died on the same day i.e. on 12.06.2009. The aforesaid instance was also published in Hindi daily newspaper "Prabhat Khabar" on 13.06.2009. The widow (petitioner) approached the respondent-authorities with a prayer for getting the benefits in view of policy decision dated 21.03.2001 of the State Government and appointment on compassionate ground in view of the fact that the husband of the petitioner died in naxal/extremist activities. The respondent-authorities recommended the case of the petitioner vide letter dated 04.10.2011 admitting therein that petitioner's case deserves to be considered in view of the policy decision of the State Government and as such, a decision may be taken regarding payments of the benefits and also for appointment on compassionate ground. The said recommendation of the S.P. Bokaro was not considered rather, the case of the petitioner was kept pending on the ground that a succession case is pending in the Court of District Judge, Gumla. Though the petitioner represented before the respondents to bring to their knowledge that the said succession case has nothing to do with the grievances of the petitioner but no heed was paid to her said prayer and the same was rejected vide order dated 19.10.2011, by the Principal Secretary of the Home Department. Aggrieved by the said rejection

order, the petitioner has knocked the door of this Court.

4. Mr. Prem Pujari Roy, learned counsel for the petitioner argues that respondent-authorities have illegally and arbitrarily withheld the legally paid benefits, which has accrued to her in view of policy decision of the State Govt. itself. Learned counsel further argued that government has taken a policy decision to give benefit including monitory benefits and admissible salary of the deceased for the remaining period of his service to the widow and other benefits have also been provided by the said decision but in the garb of successions case, which is pending in the Court of District Judge, Gumla, the respondents have withheld the entire benefits, which is not tenable in the eyes of law. Learned counsel draws the attention of the Court towards Succession Case No. 12/2010 (Annexure-15 to the writ petition) and argues that from perusal of the said case, it transpires that it has nothing to do with the grievances of the petitioner and the respondents have illegally and arbitrarily withheld the legally paid amount of the widow-petitioner.
5. Per contra counter-affidavit has been filed by the respondents. Mr. Sandip Verma, learned counsel appearing for the respondents draws the attention of the Court towards paras- 6 and 7 of the counter-affidavit and argues that as the succession case is pending in the Court of District Judge, Gumla and hence, there is no illegality or any infirmity in withholding the legally paid amount as the same can be disbursed only after disposal of the succession case.
6. Be that as it may, having gone through the rival submissions of the parties, this Court is of the considered view that the case of the petitioner needs consideration. It is very much clear from the notification/ policy decision of the State Government dated 21.03.2001, which is never disputed by the respondents that in view of death of a government employee in naxal activities, his legal heirs are entitled for compensation of Rs.10.00 lakh (Rupees ten lakh) as well as appointment on compassionate ground. Though there is recommendation of the S.P. Bokaro regarding payment of the legally payable amount accrued to the widow (petitioner) of the deceased employee in view of policy decision of the State and also regarding appointment on compassionate ground, the said recommendation was never considered by the higher authorities of the State. The Secretary, Home Department rejected the case of

the petitioner on the ground that succession case is sub-judice before the Court below. From perusal of the documents brought on record, it is clear that said succession case is on different ground, which has nothing to do with the merits of the present case and further, the Superintendent of Police of the concerned district has already recommended the case of the petitioner for appointment on compassionate ground as well as for payment of legally admissible compensation accrued to the wife of the deceased, who was killed in naxal attack and as such, there is no ground as to why the same should not be paid to the petitioner.

In view of the above, letter dated 19.10.2011, issued by the Secretary, Department of Home, Govt. of Jharkhand is hereby quashed and set aside. The petitioner is fully entitled to withdraw the legally admissible due amount to the tune of Rs.10.00 lakh (Rupees ten lakh), as per the policy decision of the State Govt. dated 21.03.2001 and also for compassionate appointment. The death occurred on 12.06.2009, the recommendation of the S.P. Bokaro was made on 04.10.2011 and now, even after more than 6 years of such recommendation, on frivolous ground, the case of the petitioner has not been considered

7. As a cumulative effect of the aforesaid observations, rules, and guidelines, I hereby direct the respondent-Director General of Police, Ranchi to consider the case of the petitioner taking into account the recommendation of the S.P. Bokaro and also the policy decision of the State Govt. dated 21.03.2001 and pass a reasoned order within a period of 15 days from the date of receipt/ production of a copy of this order. Needless to say that if the petitioner is found entitled for the said benefits, in accordance with law, the same may be extended to her within a further period of four weeks. It is made clear that Succession Case No. 12 of 2010 will not come in the way of granting legally payable amount as well as for consideration of case of the petitioner for compassionate appointment.

8. Resultantly, the writ petition stands allowed.

(Dr. S.N. Pathak, J.)