

Salwa Devi Vs. State of Jharkhand and ors.

Salwa Devi Vs. State of Jharkhand and ors.

SooperKanoon Citation : sooperkanoon.com/519682

Court : Jharkhand

Decided On : Jul-02-2008

Reported in : [2008(3)JCR458(Jhr)]

Judge : Amareshwar Sahay, J.

Appellant : Salwa Devi

Respondent : State of Jharkhand and ors.

Disposition : Application allowed

Judgement :

ORDER

Amareshwar Sahay, J.

1. Heard the learned Counsel for the parties and with their consent this writ application is being disposed of at this stage itself.

2. The husband of the petitioner, namely, late Gendura Munda was employed in the Home Guard having Home Guard No. 15878. He was sent on Assembly Election Duty in the year 2005 to Deoghar. It is said that on 23.2.2005. the dead body of the husband of the petitioner was found between Nathganj and Dilua Railway Station in the District of Gaya. According to the petitioner no enquiry was made by the authority concerned as to under what cir-cumstance her husband

died and how the dead body was found in the District of Gaya. The petitioner being a widow filed an application before the Director General of Police, Home Guards, for adequate compensation and for her appointment on compassionate ground as well as for payment of death-cum-retiral benefits. According to the petitioner, neither appointment of the petitioner on compassionate ground was made nor compensation has been awarded in her favour, even the death-cum-retiral benefits has also not been given to her.

3. A counter affidavit has been filed on behalf of respondents particularly respondent No. 2, Director General of Police, Home Guards, Government of Jharkhand. In paragraph 11 of the counter affidavit, it has been stated that while the husband of the petitioner was on election duty at Booth No. 115 Mahuatar in Madhupur Police Station, he deserted his duty by leaving rifle and cartridges behind him and thereafter his dead body was found in between Nathganj and Dilua Railway Station in the District of Gaya, and the same was brought to Ranchi and thereafter the dead body was sent to his native village at Kedali. It is also stated by the respondents that there is no provision for appointment on compassionate ground and, therefore, the claim of the petitioner cannot be accepted.

4. In a similar matter like the present one, in the case of Gayatri Devi v. The State of Jharkhand and Ors. reported in 2004 (2) JCR 912 (Jhr), a Bench of this Court while dealing with writ petition wherein the petitioner was also a widow of Home Guard, who died in course of duty was being considered and in that case also similar objection was raised that there is no provision of giving appointment on compassionate ground, this Court by judgment given in the case of Gayatri Devi v. The State of Jharkhand and Ors. reported in , held that when a Home Guard killed in course of his duty shall be entitled to get the benefit of compassionate appointment particularly when the provision of police manual which is not inconsistent with the Home Guards Act will be applicable to the Home Guard also. In the said judgment, learned Single Judge observed that very object of compassionate appointment of a dependent of the deceased employee, who dies in harness, is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the deceased. The word 'compassionate' itself

denotes a sorrow for the suffering of another. Compassionate appointment means appointment because of suffering and pitiable condition.

Same view was taken in the case of Chandra Devi v. The State of Jharkhand and Ors. (WPS No. 1390 of 2006), which was also a case of a Home Guard, who also died in course of his duty and in that case also the respondents are directed to consider the case for appointment on compassionate ground.

5. In the present case, there is no dispute of the facts that the deceased was a Home Guard and he was sent to District of Deoghar for election duty and in that course his dead body was found between Nathganj and Dilua Railway Station in the District of Gaya (Bihar). Therefore, in my view the case of the present petitioner is fully covered by the decision of this Court rendered in the case of Gayatri Devi (supra) and Chandra Devi (supra). The stand taken by the respondents in the counter affidavit for not considering the case of the petitioner for her appointment on compassionate ground is rejected.

6. Consequently, this writ application is allowed and respondent No. 2, Director General of Police, Home Guards, Government of Jharkhand, is hereby directed to consider the case of the petitioner for her appointment on compassionate ground as well as for payment of compensation and death-cum-retiral benefits admissible to her under the law by taking a decision in the matter within a period of four weeks' from the date of receipt/production of a copy of this order.

7. Let a copy of this order be handed over to the learned Counsel for the State for its immediate compliance.