

(2019) 07 PAT CK 0197

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 12479 Of 2017

Guddu Kumar

APPELLANT

Vs

State Of Bihar Through Principal Secretary And Ors

RESPONDENT

Date of Decision : 11-07-2019

Acts Referred:

Citation : (2019) 07 PAT CK 0197

Hon'ble Judges : Partha Sarthy, J

Bench : Single Bench

Advocate : Ram Kumar Singh, Md. N.H. Khan

Final Decision : Disposed Of

Judgement

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

The father of the petitioner who was working as a home guard in the district Gaya died on 27.09.2016. The petitioner thereafter filed his claim for "Anugrah Anudan" before the Home Department but as he did not get the same, as such the instant writ application.

As per the case of the petitioner his father Shri Praveen Singh, home guard no. 12948 was placed on deputation at Wazirganj, Primary Health Center. He experienced chest pain and on 04.07.2016 and was referred by the doctor of Primary Health Center to the emergency wing of ANMCH. It is stated that as the petitioner's father had undergone treatment at Ayushman Poly Clinic, Gaya, so he went to the same clinic for treatment on 04.04.2016, 23.08.2016 and 14.09.2016 when ultrasonography was also done. The petitioner has enclosed the copy of the prescription showing that his father was under treatment at Ayushman Poly Clinic, Gaya from 04.07.2014 till 14.09.2016. It is further contended on behalf of the petitioner that while under treatment, his father died on 27.09.2016. A copy of the death certificate of the petitioner's father has been brought on record as Annexure 5 to the writ application. It is further stated on behalf of the petitioner that the father of the petitioner died in service as a Home

guard and as such the family was entitled for getting sum of Rs. 4 lacs in terms of the resolution contained in memo no. L/HG-303/2002-7381 dated 03.07.2015 (referred to in Annexure 1 to the writ application) issued under the signature of respondent no. 2.

The petitioner filed an application before the authorities concerned and on not getting any response to his application moved before the District Public Grievances Redressal Officer, Gaya who gave a decision dated 30.11.2016 advising the petitioner to move before the First Appellate Authority cum-Divisional Commissioner, Magadh Division, Gaya for redressal of his grievances. The petitioner accordingly, moved before the Divisional Commissioner who by his order dated 04.02.2017, disposing of the petitioner's application directed the Senior Superintendent of Police to proceed on the application of the petitioner in accordance with law within 15 days. Accordingly, as directed, the petitioner filed his application before the Senior Superintendent of Police, Gaya and also sent a copy of the same through registered post.

A counter affidavit has been filed on behalf of the respondent no. 4 stating therein that the father of the petitioner, a home guard was working at the place of Deputation/engagement i.e. the Primary Health Center, Wazirganj, Gaya, and as would be evident from memo no. 41 dated 06.01.2017 issued under the signature of the Divisional Commandant -cum-District Commandant, Bihar Home Guards, Gaya, the father of the petitioner was relieved from the Primary Health Center in the forenoon of 04.07.2016. It was subsequent to being relieved that he fell ill and was referred to ANMCH, Gaya for better treatment. It is finally stated that it was almost two months after his being relieved from the Primary Health Center, Wazirganj, that the petitioner died on 27.09.2016. Hence as per the respondents the father of the petitioner was not on deputation/engagement at the time when he fell ill and thus, his case does not come under the purview for grant of "Anugrah Anudan" as at the time of his death he was not engaged in Bihar Home Guard.

Having heard learned counsel for the petitioner and learned counsel for the State and on going through the records of the case it transpires that by his order dated 30.11.2016 brought on record as Annexure 6 to the writ application, the District Public Grievances Redressal Officer, Gaya was of the opinion that the father of the petitioner would be treated on duty at the time of his death. However, he was not certain as to which authority would be liable to pay the sum of Rs. 4 lacs in terms of the resolution dated 03.07.2015 referred to above.

Thus, as directed the petitioner moved before the Divisional Commissioner, Magadh Division, Gaya and thereafter before the Senior Superintendent of Police, Gaya. In spite of this specific averment in the writ application, the counter affidavit filed on behalf of the respondent no. 4 is silent with respect to the result of the petitioner's representation filed before the Senior Superintendent of Police, Gaya. It would further be relevant to point out here that in reply to the averment made in the writ application wherein the order dated 30.11.2016 passed by the

District Public Grievances Redressal Officer, Gaya, order dated 30.11.2016 and 13.12.2016 by the Divisional Commissioner, Magadh Division, Gaya and representation dated 10.02.2017 of the petitioner before the Senior Superintendent of Police, Gaya were brought on record, in the counter affidavit filed on behalf of the respondent no. 4, it was replied that it is a matter of record and they have no comments to make. Further in the counter affidavit although it is stated that the father of the petitioner died on 27.09.2016, much after being relieved on 30.06.2016, however, the counter affidavit is absolutely salient in its reply to the order dated 30.11.2016 (Annexure 6 to the writ application) wherein the District Public Grievances Redressal Officer, Gaya has stated that the petitioner's father would be considered on duty at the time of his death.

Taking into consideration the submissions of the counsel for the parties as also the materials available on record, it transpires that the Senior Superintendent of Police, Gaya (respondent no. 5) has still not taken a decision on the representation/petition of the petitioner for grant of a sum of Rs. 4 lacs in terms of Resolution No. L/HG-303/2002-7381 dated 03.07.2015 in view of the death of his father. Thus, the writ application is disposed off with liberty to the petitioner to file a fresh representation/petition along with a copy of this order before the Senior Superintendent of Police, Gaya/concerned authority. In case such a representation is filed along with a copy of this order, the same shall be decided by the authority concerned within a period of three months from the date of its receipt/production. In case the petitioner is found entitled for the amount being prayed for, the same shall be paid to him within a period of three months from the date of disposal of the representation. However, in case the Senior Superintendent of Police, Gaya/authority concerned comes to the conclusion that the petitioner is not entitled to the said amount, the same shall be communicated to the petitioner by a reasoned order within the aforesaid period.

Writ application stands disposed off with the above observations and directions.