
(2015) 05 PAT CK 0150

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 3465 of 2015

Love Kumar Singh

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 07-05-2015

Acts Referred:

Citation : (2015) 3 BBCJ 104

Hon'ble Judges : Ajay Kumar Tripathi, J.

Bench : Single Bench

Advocate : Mr. Prakash Kumar, Mr. Neeraj Kumar and Mr. Manoranjan Kumar, Advocates, for the Petitioners; Mr. Ashok Kumar Chaudhary, AAG-13 and Mr. Anil Kumar Tiwary, Advocate, for the Respondents

Final Decision : Dismissed

Judgement

Ajay Kumar Tripathi, J. (Oral) - Heard learned counsel for the parties.

2. Petitioner is the son of late Swaraj Prasad Singh. His father was enrolled as a Home-guard. He died on 10.06.2014 and after his death the present petitioner demanded certain benefits and contribution in terms of the government circulars and the rules relating to Home-guards. The matter was considered by Respondent No. 7, the District Commandant of Homeguard, Jamui and rejected on the ground that benefit which the petitioner is looking for is not available within the parameters of the circulars and the rules.

3. It may be clarified that Home-guards are not government servants. Their terms of enrolment and service conditions are regulated by what is known as Bihar Home-guards Rules, 1953. Certain circulars have also been issued as to the kind of benefit such persons working as Home-guards can derive, while they are on duty, because by a deeming fiction they are treated or entitled to the benefit, if they incur any kind of injury or bodily harm while on duty.

4. Father of the petitioner was deputed to work as a Home-guard in Jamui Jail. He was deputed on 21.05.2014. But, without any information or without any

leave of any authority petitioner's father went missing. He was even thereafter declared absconder and debarred from any duty for six months. It is said that he died on 10.06.2014 due to certain ailments.

5. Counsel for the petitioner submits that the matter should be considered sympathetically. Petitioner's father was quite unwell, which is made out from the fact that within a week or 10 days of his missing from responsibility he passed away due to a cardiac ailment. Therefore, his absence was not voluntary and a sympathetic view ought to be taken.

6. Both the rules and the circulars, which are annexed as Annexure-C to the counter affidavit of the State, deals with the parameters of grant of benefit and reward to the dependants of a Home-guard. A Homeguard is entitled to certain benefits within the parameters of the said circulars and rules, provided he was on duty or the eventuality happened during the performance of his duty, i.e., if he suffers from any injury or death, the State Government will extend protection or benefit indicated therein.

7. The fact is that petitioner's father was not on duty. In fact he was missing from duty. Even if he was not on duty but was on official leave some kind of liberal view could be taken. But, it is not the case of the petitioner that his father informed any authority or took any permission to undergo any treatment under the circumstances that he was rather unwell.

8. This Court, therefore, cannot extend the benefit over and above the policy as well as the circulars, which govern the service conditions of such persons, since he is not a government servant, but is deemed to be a government servant, while on duty, which the father of the petitioner was not at the relevant time. Therefore, rejection of the claim of the petitioner in terms of Annexure-10 cannot be said to be arbitrary or irrational.

9. Writ application, therefore, is required to be dismissed and it is dismissed.