

Jharkhand High Court

Saraswati Tirkey vs State Of Bihar & Ors. on 11 December, 2008

In the High Court of Jharkhand at Ranchi

W.P.(S) No.510 of 2006

Saraswati Tirkey.....Petitioner

VERSUS

State of Bihar and others.....Respondents

CORAM: HON'BLE MR. JUSTICE R.R.PRASAD

For the Petitioner : M/s.P.K.Das and M.K.Sinha

For the RIMS : Mr. R. Krishna

For the State :J.C to A.G

4. 11.12.08

It is the case of the petitioner that her husband Somnath Oraon after undergoing selection process, was selected for the appointment on the post of Driver. On receiving appointment letter, bearing no.3789 dated 1.9.1983 issued by respondent no.3, the Principal/Superintendent, Rajendra Institute of Medical College and Hospital, Ranchi, he joined as Driver in the Department of Eye, Rajendra Institute of Medical College and Hospital, Ranchi. Thereupon the petitioner's husband continuously discharged his duties either in the Department of Eye or Central Eye Mobile Unit, Rajendra Institute of Medical College and Hospital, Ranchi until 6.12.1989 when it was informed vide Annexure 4 by the Head of the Department of Eye, Rajendra Institute of Medical College and Hospital, Ranchi that the services of the petitioner's husband on account of abolition of the post has been terminated. Thereupon, representations were made, upon which the then Joint Secretary, Department of Health and Family Welfare, Bihar, Patna vide its letter bearing no.5(ii) dated 8.1.1990 communicated to the Accountant General, Bihar that under the order of the Government, certain posts of Central Eye Mobile Unit, Ranchi, Bhagalpur and Darbhanga have been abolished but the persons who had been appointed validly would be adjusted somewhere. Thereafter enquiry was held whereupon petitioner having been found appointed rightfully was transferred on the vacant post of Driver, District Eye Mobile Unit, working under the office of Civil Surgeon-cum-Chief Medical Officer, Singhbhum, Chaibasa by Deputy Director, Department of Health and Family Welfare, Bihar, Patna, vide order as contained in letter bearing no.3456 dated 6.8.1991 (Annexure 6) stating therein that the services of the petitioner's husband is adjusted from the date of his joining. Accordingly, the petitioner's husband did give his joining. Subsequently, Civil Surgeon-cum- Chief Medical Officer, Singhbhum, Chaibasa wrote a letter, vide its memo no.1488 dated 23.8.1991 to the Deputy Director, Health and Family Welfare, Bihar, Patna that services of the petitioner's husband is being returned as post of the driver is not vacant. Thereupon petitioner's husband made representation before several authorities including the Deputy Director, Health Services, Bihar Patna upon which he wrote a letter dated 27.11.1991 (Annexure 9) to Principal/ Superintendent, Rajendra Institute of Medical College and Hospital, Ranchi whereby information regarding vacancy was sought for the adjustment of the petitioner but the Principal/ Superintendent, Rajendra

Institute of Medical College and Hospital, Ranchi did not care to reply back to the Deputy Director. In this way nothing could be done in the matter of adjustment of the petitioner, though services of the person similarly situated, namely, Smt. Benu Rani, who had also been thrown out of the job on 6.12.1989 had been adjusted, but the petitioner's husband was not even paid his dues, which he was entitled to. Therefore, when there was no any other alternative, petitioner filed a writ application, bearing W.P.(S) No.1619 of 2003 putting prayer for adjustment and for making payment of the arrears of salary and other dues but during pendency of the writ application, the petitioner's husband died on 12.4.2004. Thereafter petitioner being widow made representation before the authorities for making payment of arrears and other dues and also for her appointment on compassionate ground but only Rs.15,132/- was paid towards G.P.F but no payment was made towards, gratuity, arrears of salary, leave encashment, group insurance etc. nor any decision has been taken with respect to appointment of the petitioner on compassionate ground and under this situation, this writ application has been filed for a direction to the authorities to make payment to the petitioner which was due to be paid to her husband on account of arrears of salary, leave encashment, gratuity, group insurance etc. and also for a direction to the respondent for employment of the petitioner on compassionate ground.

Stand of the respondent no.3, Director, Rajendra Institute of Medical Science, Ranchi as disclosed in the counter affidavit is that the petitioner's husband had been appointed against the temporary post created under the scheme of National Blindness Control Programme and when the post of Driver was abolished, his services were terminated, vide letter dated 5.12.1989 by the Head of the Department, Department of Eye, Rajendra Institute of Medical College and Hospital, Ranchi and as such, petitioner is not entitled to any relief.

It would be significant to note here that it has been admitted that the services of the petitioner's husband was adjusted/absorbed in the District Eye Mobile Unit, Singhbhum, Chaibasa.

Having heard learned counsel appearing for the parties it does appear that the petitioner's husband having been selected through process of selection was appointed as Driver in the year 1983 in the Department of Eye/ Central Eye Mobile Unit, Rajendra Institute of Medical College and Hospital, Ranchi. After rendering services for six years, he was asked to stop work with effect from 6.12.1989 as the post had been abolished. Thereafter when the petitioner's husband made representation, Joint Secretary, Department of Health and Family Welfare, Bihar, Patna wrote a letter to the Accountant General, Bihar to the effect that some posts of the Central Mobile Eye Unit at Ranchi, Bhagalpur and Darbhanga have been abolished but the services of the persons who were appointed in accordance with rule shall be adjusted. Thereafter, Deputy Director, Health and Family Welfare passed an order as contained in Annexure 6 whereby services of the petitioner was transferred to the vacant post of Driver at the District Mobile Eye Unit, Singhbhum, Chaibasa but subsequently, his services was returned by Civil Surgeon-cum-Chief Medical Officer on the plea that the post is not vacant. Thereafter no order was passed regarding posting of the petitioner's husband though petitioner's husband, in the meantime, made several representations before the authorities and ultimately petitioner's husband died on 12.4.2004 and till the death of the petitioner's husband, no termination order seems to have been passed and, therefore, under this situation, husband of the petitioner can certainly be sad to have died in harness. After the death of the husband of the

petitioner, petitioner made representation regarding payment of dues such as gratuity, leave encashment, group insurance etc. which the husband of the petitioner was entitled to get but only Rs.15,132/- was paid towards G.P.F but other dues, according to the petitioner, has not been paid nor the authorities passed any order with respect to employment of the petitioner on compassionate ground.

In view of the facts and circumstances, this writ application is disposed of with a direction to the petitioner to make a fresh representation relating to her appointment on compassionate ground and also with regard to payment of dues to be paid to the petitioner's husband and other benefit on account of death of her husband along with a copy of this order before the Secretary, Department of Health, Bihar, Patna within a period of three weeks and the Secretary on getting representation will be taking decision in the matter within a period of eight weeks.

With the aforesaid direction, this writ application is disposed of.

(R.R.Prasad, J.) ND/