

SUPREME COURT OF INDIA

Suhavan Devi

Vs.

State of Bihar

C.A.No.2356 of 2008

(K.G.Balakrishnan,CJI., R.V. Raveendran,JJ.)

28.03.2008

ORDER

1. Leave granted.

2. Heard learned counsel for the parties. This appeal is filed by the widow and son of one Suresh Tiwary who was a Havildar in the police department in the district of Munger, Bihar. In the year 1988, he was transferred from Munger to Siwan District. He did not join at the transferred place and has been missing ever since 1988. The first appellant made an application in 1998 requesting that either her husband be traced or her son (second appellant) be granted appointment on compassionate grounds. The department considered the matter and declared the missing person Suresh Tiwary - dead by order dated 26.3.2002. Thereafter the second appellant filed an application for appointment on compassionate grounds. The respondent State rejected the application on 9.4.2002 on the ground that there was no provision for giving appointment on compassionate grounds to the dependant of a missing government servant. The writ petition filed by the appellants challenging the said order was rejected by a learned single Judge on 18.8.2003. The appellant filed an L.P.A. and a Division Bench of High Court of Patna dismissed the appeal, which is challenged in this appeal. It is admitted by the learned counsel for the State of Bihar that there is a scheme for appointment on compassionate grounds as per Annexure-R-2. The rejection is on the ground that there is no provision for compassionate appointment of dependants of missing persons. But in this case, Suresh Tiwary was declared as dead only by order dated 26.3.2002. In the peculiar facts and circumstances, the fourth respondent is directed to consider the claim of the second appellant in accordance with the scheme for compassionate appointment, and if found eligible, offer him appointment. The appeal is disposed of accordingly. Parties to bear their respective costs.