

Court No. - 40

Case :- WRIT - C No. - 32670 of 2023

Petitioner :- Majeed Khan And 5 Others

Respondent :- Union Of India And 3 Others

Counsel for Petitioner :- Manish Kumar Jain

Counsel for Respondent :- A.S.G.I.,C.S.C.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard learned counsel for the petitioner and Sri F.A.Ansari, learned Standing Counsel for the State-respondent.
2. The present writ petition has been preferred for a mandamus commanding the respondent authority to pay the compensation amount in favour of the petitioners as per law, which is pending before the respondent no. 3 i.e. The New India Insurance Company Ltd. B-401, 4th Floor, Anshal Chamber-1, Bheekaji Kama Place, New Delhi. Alternatively, prayer is made to direct the respondent no. 3 to decide the representation dated 20.6.2023 (Annexure No. 12 to the writ petition).
3. Petitioners claimed to be relatives of deceased Aslam Khan, who was engaged on the post of I.C.T.C. Counselor in the office of C.M.O. District Kanshiram Combined Hospital [Male] District Lalitpur on 29.7.2011. His initial engagement letter is also been brought on record as Annexure No. 1 to the writ petition. The State Government had issued a Government Order dated 11.4.2020 wherein it was provided for according ex-gratia payment to all the dependents of deceased employees who were deputed in prevention, treatment and safety and died on duty during Covid-19 pandemic. The claim had been set up in the light of aforesaid Government Order for according ex-gratia payment of untimely demise of late Aslam Khan. The C.M.O. Lalitpur had processed the claim and on the basis of medical report had acknowledged ICTC Counselor late Aslam Khan died on duty due to covid on 8.5.2020 and accordingly, he made a communication to the Director General, Medical and Health Services, U.P. at Lucknow on 20.10.2020 (Annexure No. 6 to the writ petition). The said recommendation was accepted by the Director General on

11.11.2020 and accordingly referred the matter to the respondent no. 3/New India Insurance Company, New Delhi so that actual payment could be ensured in the light of the aforesaid Government Order. Both the letters i.e. 20.10.2020 and 11.11.2020 were duly endorsed to Smt. Firdaus Sultana, wife of late Aslam Khan. Therefore, it is not in dispute before the Department that Smt. Firdaus being wife of late Aslam Khan is entitled for the ex-gratia payment. The petitioners who claimed to be family members of late Aslam Khan, have approached to this Court for a direction to the respondents to accord ex-gratia payment of late Aslam Khan. Surprisingly, they have made Smt. Firdaus Sultana as proforma respondent.

4. In the said facts and circumstances, we are of the considered opinion that Smt. Firdaus Sultana being wife of late Aslam Khan is entitled for the ex-gratia payment in the light of recommendation made by the department concerned. Moreover, the claim for ex-gratia payment once it is acknowledged by the parent department and accordingly, Director General, Medical and Health Services, State of U.P. at Lucknow had already recommended for release of ex-gratia payment to the respondent no. 3 i.e. New India Insurance Company, New Delhi. We deem it appropriate, the claim is to be decided by the respondent no. 3 and ex-gratia payment is to be released in favour of widow Smt. Firdaus Sultana, in case there is no other impediment. Accordingly, we direct the respondent no. 3 to take a final call in the matter in view of the recommendation dated 11.11.2020 made by Director General, Medical and Health Services, State of U.P. Lucknow as expeditiously as possible and preferably within six weeks from the date of production of a certified copy of this order.
5. With the aforesaid observations, the present writ petition stands disposed of.
6. This order shall be communicated by Sri F.A.Ansari, learned Standing Counsel to the respondent no. 3 as well as Smt. Firdaus Sultana within 48 hours.

Order Date :- 1.11.2023

A.K.Srivastava