IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.1286 of 2014

1.State of Tamil Nadu,
Rep. by its Home Secretary,
Fort St.George, Chennai - 600 009.

2.The Director General of Police,
Chennai - 600 004.

3.Inspector General of Police,
(Operation) Chennai - 600 028. .... Appellants

-vs-

N.Bhuvaneswari .... Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent against the order passed in W.P No.25525 of 2009 dated 25.04.2014.

W.P No.25525 of 2009:-
Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, by calling for the records relating to the proceedings of the 2nd respondent dated 12.11.2009 made in Rc.No.127428/TNPBF(2)/2008 and also the 2nd respondents proceedings dated 25.09.2009 made in Rc.No.127428/TNPBF(2)/2008 quash the same and direct the respondents 1 and 2 to sanction a sum of Rs.10,00,000/- as financial assistance to the petitioner as per the Tamil nadu Police Insurance Scheme Rules for police officers and personnel.

For Appellants : Mr.V.Anandhamoorthy
Addl.Government Pleader

For Respondent : Mr.S.R.Raghunathan

J U D G M E N T

[Judgment of the Court was delivered by
K.K. SASIDHARAN,J.]

Introductory

The Government of Tamil Nadu taking into account the possibility of death of Police Officers and Police Personnel while on duty introduced an Insurance Scheme, which would cover the Police Officers and Police Personnel serving in the General Police, Special Task Force, Commando Force, Commando School, Swift Action Force and Core Cell. When a claim was made by the respondent for payment of the insurance amount of Rs.10 lakhs on account of the death of her husband while on duty, the very same Police Department and the Government raised a technical objection that the death should be an accidental one and it would not cover natural death during duty. Even after a period of ten years, the respondent is fighting with the mighty State to receive the compensation awarded by the Writ Court.

The Facts

2. Thiru.S.Nithiyanandam, the husband of the respondent was working as Sub-Inspector of Police in the Tamil Nadu Commando Force, Marudham. He was directed to report before the Superintendent of Police, Railways at Jolarpettai on 29 May 2008 in connection with anti-dacoity operation. On 1 June 2008, while Thiru.Nithiyanandam was travelling with other Police officers for patrolling, he developed chest pain. Since the officer was in the train, he could be taken to the hospital only after some time. He was taken to the Government Hospital at Thirupattur. The Medical officer declared him dead. The Police registered a case in Crime No.154 of 2008 on the file of Jolarpettai Railway Police Station.

3. The respondent submitted application for the insurance amount under the Tamil Nadu Police Insurance Scheme Rules for Police Officers and Personnel. Her case was initially recommended by the Director General of Police to the Government on humanitarian grounds. The request was later negatived by the Director General of Police by Memorandum dated 12 November 2009. The said order was challenged before the Writ Court in W.P.No.25525 of 2009. The learned single Judge allowed the writ petition. Feeling aggrieved, the State, along with the Director General of Police and the Inspector General of Police, Chennai, have filed this intra court appeal.

4. We have heard the learned Additional Government Pleader on behalf of the appellants and the learned counsel for the respondent.

Discussion

5. There is no dispute that the husband of the respondent was a member of the Tamil Nadu Commando Force. It is also not in dispute that he was sent to Jolarpettai in connection with Railways anti dacoity operation. He was on patrolling duty on the fateful day. He suffered chest pain while on duty and was taken to a nearby Doctor. Since there was no adequate medical facility, he was taken to the Government Hospital at Thirupattur. However, he died en route and it was confirmed by the Medical Officer at the Government Hospital.

The Scheme

6. The Government of Tamil Nadu introduced the Group Insurance Scheme in the name and style of "Tamil Nadu Police Insurance Scheme Rules for Police Officers and Personnel". The Rules were notified in G.O.Ms.No.1160 Home (Pol.XII) Department, dated 18 August 1999 and it came into force with effect from 1 April 1997.

7. The Annexure to the Government Order gives an idea with regard to the scope of the Rules and its coverage. Rule (1) dealing with the Scope of the Rules clearly indicates that even a Police men, who die while on duty is entitled to compensation and the death need not be accidental.

Rule (1) is extracted hereunder:-

> Scope: The Scope of these rules be to constitute a Corpus Fund with Government contribution for the purpose of granting financial assitance to Police officers and Personnel of Tamil Nadu serving in the General Police, Special Task Force, Commando Force, Commando School, Swift Action Force, and Core Cell who die, including accidental death or permanently incapacitated or partially disabled in pursuit of their duties.
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> (Emphasis added)

8. We have considered the Rules in its entirety. The purpose for which the Rule was framed is clearly mentioned in the Annexure with a caption "Scope". A plain reading of the said paragraph would clearly indicate that the Corpus Fund was created for granting financial assistance to the Police Officers and Personnel of Tamil Nadu serving in the General Police, Special Task Force, Commando Force, Commando School, Swift Action Force, and Core Cell who die and it will also include accidental death or cases of permanent or partial disablement attributed to the service.

9. Rule 2(b) of the Annexure to the Rules defines 'Death

Benefit', which means the benefits the nominee legal heirs deserve in case of death while on duty of the deceased. If this definition is read along with the Scope of the rules, it is very clear that the nominee legal heirs of the deceased Policemen is entitled to the benefits notwithstanding the fact that it was not an accidental death. The only condition is that the death should have caused while on duty.

10. The claim made by the respondent was negatived by the Police Department and the Government on the sole ground that the death was not an accidental one. According to the appellants, though it was an unfortunate event, it was only a natural death and as such, the nominee is not entitled to compensation under the Police Insurance Scheme.

11. The exclusion clause in Rule 3 does not contain a statement that natural death is excluded from the Scheme.

12. The Police Department is now adopting a too technical approach by giving a restrictive meaning to the inclusive definition "accidental death or permanently incapacitated or partially disabled". However, such inclusive definition would not take away the right given to the nominee to claim compensation on account of natural death while on duty.

13. The Tamil Nadu Police Insurance Scheme Rules for Police Officers and Personnel were framed with a larger purpose taking into account the nature of job performed by the Police Force. The Police Personnel are working without fixed working hours. The nature of duty performed by them contributed for their health issues. In case the compensation is limited to accidental death, the very purpose of the Scheme would be defeated.

14. The Government took a policy decision to pay compensation of Rs.10 lakhs to the nominee legal heirs of the Policemen who die while on duty. The benefit is also given for accidental death or disablement. A Scheme like this must be given a liberal interpretation taking into account the purpose for which it was framed. The Scope of the Rule clearly indicates that even a Policeman who die during duty is entitled to compensation and it is not confined to accidental death. We are therefore of the view that there is absolutely no merit in the contention taken by the appellants.

15. The husband of the respondent died on 1 June 2008. The writ petition was allowed on 25 April 2014. Even after ten years of death, the respondent is not given compensation. The appellants, who were instrumental in framing the Rules in the interest of Police Personnel themselves have come up with this

appeal by dragging the respondent into the midst of prolonged litigation.

16. We make the position clear that the Tamil Nadu Police Insurance Scheme Rules for Police Officers and Police Personnel would cover even the cases of Police Personnel who died while on duty and it is not restricted to accidental death or permanent / partial disability arising out of employment.

17. We direct the appellants to pay the compensation awarded by the Writ Court to the respondent along with interest @ 9% per annum from 1 July 2009, the date on which the writ petition was filed by the respondent. The amount with interest should be paid within a period of one month from the date of receipt of a copy of this judgment.

18. The intra court appeal is dismissed without liability to pay costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

svki

To

1. The Home Secretary,
   Fort St.George, Chennai-600 009.

2. The Director General of Police,
   Chennai-600 004.

3. The Inspector General of Police,
   (Operation) Chennai-600 028.

+2ccs to Mr.S.R.Raghunathan, Advocate, S.R.No.43437, 43355

W.A.No.1286 of 2014

VD(CO)
CS/19/07/18